



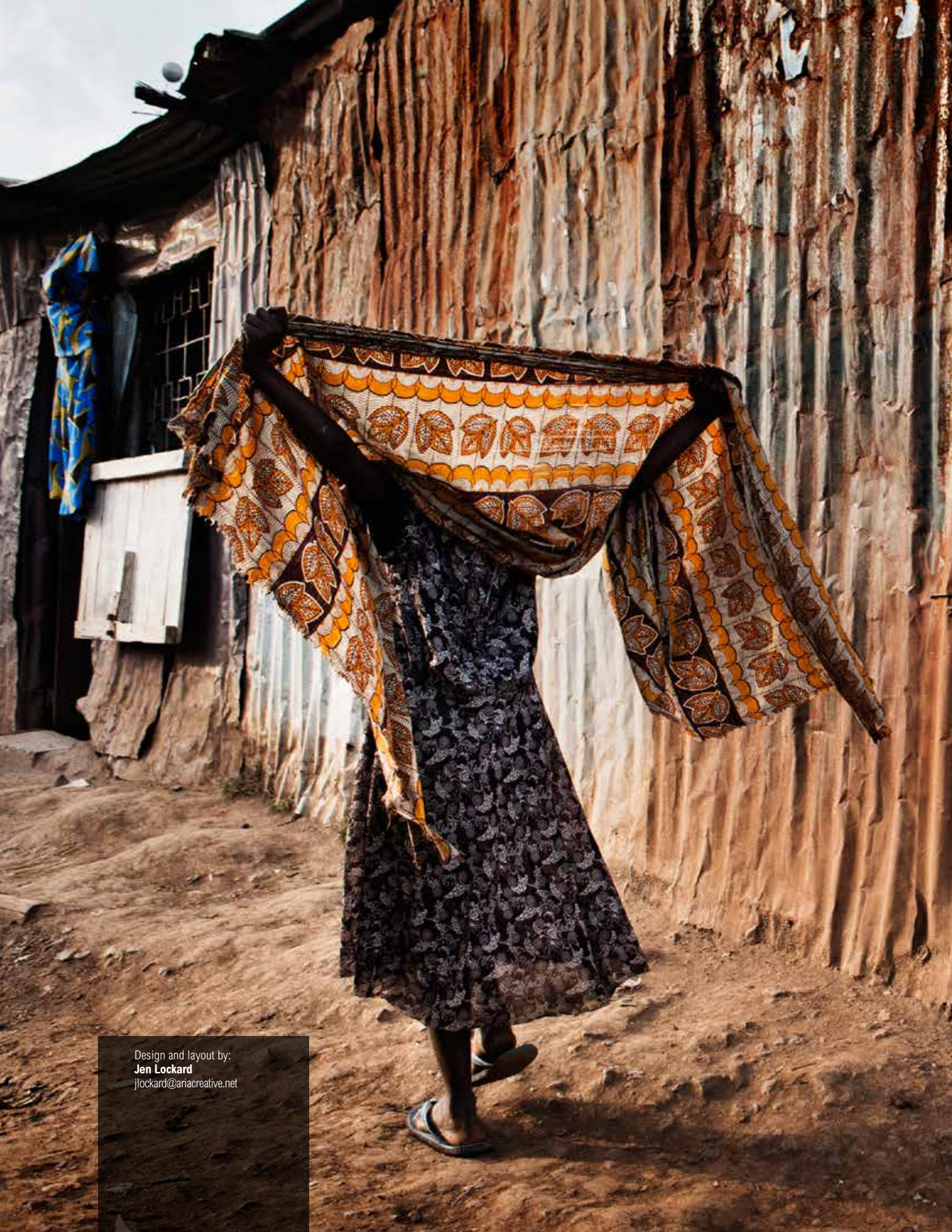
WORLD
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STRIKING THE BALANCE

*Ownership and Accountability in Social and
Environmental Safeguards*

GAIA LARSEN AND ATHENA BALLESTEROS

WRI.ORG



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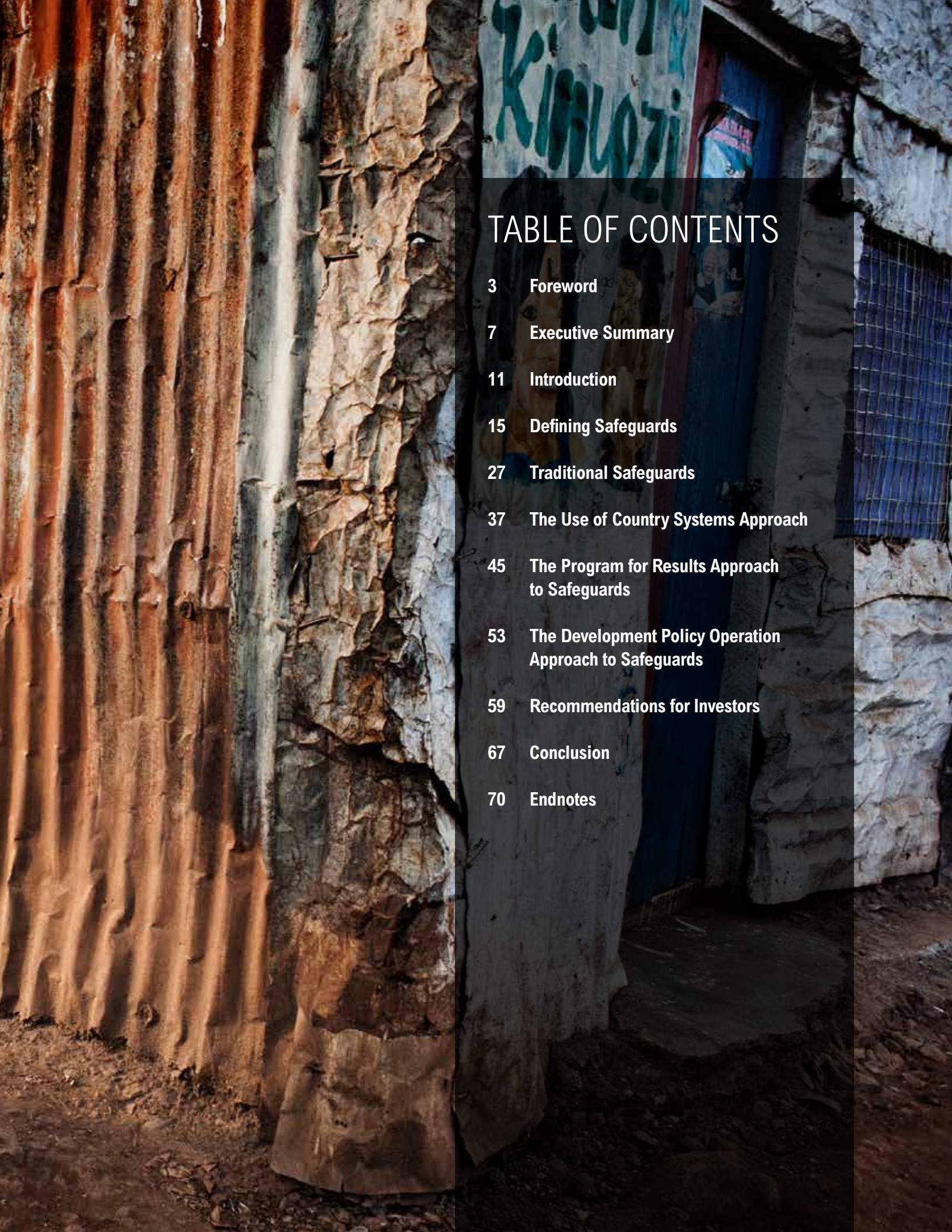


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FOREWORD

Investment flows to developing countries have increased more than thirty-fold in the past forty years. In fact as a group, developing countries now receive more foreign investments than their developed counterparts. This money has the potential to benefit the half of the global population still living on less than \$2.50 a day.

Yet these investments often hurt the environment. In countries like Nigeria and Indonesia, the billions of investments in recent decades have often done little to lift people out of poverty. Too often they have also compromised ecosystems. Between 2000 and 2012, the world lost over 300 million acres of forests, while species went extinct at 1,000 times the natural rate.

Governments are central to ensuring that investments do not harm vulnerable people and ecosystems, but corruption, limited human resources, and low technological capacity often hinder their effectiveness. Where governments can't provide adequate protection, investors like the World Bank can help. Many investors realize the importance of ensuring that their actions don't cause harm, but struggle to do so. One critical challenge they face is determining how to best work with host country governments, which bear the major responsibility for ensuring environmental stewardship. This report, *Striking the Balance*, aims to help investors address this challenge.

Using experiences with the World Bank's safeguard policies, this report explores how investors can work with national governments to reduce environmental and social risks. The report draws upon extensive interviews with staff from the World Bank and other financial institutions, individuals in government, and members of civil society. It finds, first, that greater country ownership over the safeguard process is beneficial, yet when safeguard systems are weak, strong investor policies may still be necessary. Second, investors must individually assess each country's rules and, crucially, their implementation. Third, investors must engage consistently—and throughout the safeguard process—in information-gathering, problem-solving, and collaboration, and must be sure to clarify safeguard requirements. Finally, citizens must be central in establishing safeguard systems.

We owe it to ourselves and future generations to reduce poverty while protecting our global ecosystems. If we are to succeed, everyone must lend a hand. We hope this reports helps investors effectively tackle this urgent task.



Andrew Steer
President
World Resources Institute

ABBREVIATIONS AND ACRONYMS

ADB	Asian Development Bank
AfDB	African Development Bank
AusAID	Australian Agency for International Development
B.P.	Bank Policy (World Bank)
CEA	Country Environmental Assessment
DPO	Development Policy Operation
EBRD	European Bank for Reconstruction and Development
EIA	Environmental Impact Assessment
ESSA	Environmental and Social Systems Assessment
GCF	Green Climate Fund
IDB	Inter-American Development Bank
IFC	International Finance Corporation
NGO	Nongovernmental Organization
O.P.	Operational Policy (World Bank)
PforR	Program for Results
PSIA	Poverty and Social Impact Assessment
SEA	Strategic Environmental Assessment
SESA	Strategic Environmental and Social Assessment
SIDA	Swedish International Development Cooperation Agency
UCS	Use of Country Systems

DEFINITIONS

Accountability: the ability of relevant actors to be held to account for a failure to uphold social and environmental protections.

Country Ownership: when the public, and the government that represents them, have decisionmaking power over activities taking place in their country.

Country safeguard system: the rules and institutions within the recipient country that protect people and the environment from harm associated with investments. Some also use the term “borrower” or “national” systems to refer to this set of rules and institutions. The term “country” is used here in recognition of the fact that not all funding received by countries is in the form of loans. The term “national” is avoided to emphasize that subnational systems are also important.

Development Policy Operation (DPOs): World Bank loans, grants, or credits to governments to support changes in a country’s policies and/or institutions.

Institution: a governmental or non-governmental body such as a public agency, civil society, organization or private company.

Investor: any institution or actor providing loans, grants, or direct investments.

Program for Results (PforR): results-based funding modality for programmatic lending introduced by the World Bank in 2012. PforR uses a unique approach to social and environmental protections that relies significantly on the systems of the recipient country.

Recipient country: the country receiving a loan or grant or hosting an investment project or program.

Rule: articulated and codified principles that set the substantive and procedural limits of a safeguard system by defining what should or should not occur. Examples of rules include laws, regulations, policies, procedures, and guidelines.

Safeguard: a rule or institution that seeks to avoid, minimize, or mitigate adverse environmental and social impacts. These rules and institutions can be set by the investor and/or the recipient country.

Safeguard systems: the combined set of rules and institutions that ensure adequate social and environmental protection.

Traditional safeguards: safeguard policies that set detailed procedural and substantive requirements that governments must follow to obtain funding. At the World Bank, these are commonly known as the safeguard policies that apply to investment loans.

Use of Country Safeguard Systems (UCS): a safeguard approach created by the World Bank to increase use of recipient country rules and institutions as safeguards against environmental and social harm associated with a project (or “investment”) loan. This approach allows the recipient government to use its own systems if they are found “equivalent” to those of the World Bank and if their track record is deemed “acceptable.”

PHOTO CREDITS

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EXECUTIVE SUMMARY

Investors face growing pressure to reduce the negative environmental and social impacts of their investments. In trying to do so they are confronted with the question of how to interact with governments in the countries where they invest.

Both governments and investors—including international financial institutions, public funds, and private banks and companies—grapple with how to foster economic development without creating social or environmental harm. Past economic growth led to improved prosperity for millions, but caused environmental damage and suffering for those not positioned to benefit from the growing wealth. Governments and investors are now under strong pressure globally to ensure that economic growth supports rather than harms people and the ecosystems on which they rely.

Governments have set up rules and institutions to protect their people and natural resources. Unfortunately, many of these systems are still inadequate. Governments in developing countries, in particular, struggle to consistently ensure that investments in roads, power plants, agriculture projects, or other infrastructure do not result in undue social and environmental harm. If governance systems are weak, investors can help provide social and environmental protection. International financial institutions like development banks now realize that environmental sustainability and social equity are vital to their missions of economic development. The World

Table 1 | **Overview of the World Bank’s Four Safeguard Approaches**

SAFEGUARD APPROACH	TYPES OF FUNDING	DEGREE OF RELIANCE ON COUNTRY SYSTEM	STRENGTHS	WEAKNESSES
Traditional safeguards	Project operations	LEAST: Recipient government responsible for implementing safeguards according to the Bank’s system	Relatively high investor engagement in ensuring accountability; provides example for country systems	Potentially ineffective incentive structure; limited focus and resources for monitoring and evaluation
Use of country systems	Loans for projects	MIDDLE: Bank assesses country’s systems and decides whether they are strong enough to rely on; otherwise uses traditional safeguards	Focus on how to strengthen country systems; balance between flexibility and accountability	Higher costs; flexibility still limited; unclear standards
Program for results	Results-based loans for programs	MORE: World Bank assesses country’s safeguard systems and can propose gap-filling measures	Flexibility allows easier integration with country systems; attention to country systems; potential to focus on safeguard results	Safeguards not explicitly tied to results; reduced support for implementation; unclear standards
Development policy operations	Direct budget support	MOST: World Bank does cursory assessment of country’s systems and can change the loan triggers if deemed appropriate	Full use of country safeguard systems; opportunity for investment in country safeguard systems	No environmental and social standards; little analysis of the country’s systems; narrow definition of impacts; no link between impact assessments and changes to loan requirements; lack of continued engagement

Bank's new overall strategy recognizes, for example, that successful development requires "actions to secure the future of the planet, ensure social inclusion, and set a solid foundation for the wellbeing of future generations."¹ Private companies are seeing the stress that natural resource scarcity and social unrest can place on their value chains.

Many investors, including the World Bank, the Green Climate Fund, the European Bank for Reconstruction and Development (EBRD), and several private companies are creating new social and environmental policies or updating old ones. A central question facing these investors is how to manage the relationship between their policies and the laws and institutions of the countries in which they invest. Governments ultimately have control over activities within their countries, and national laws and policies will always play a role in implementation of investment projects. It is, therefore, in the interest of investors to structure their social and environmental policies to work effectively with relevant country systems.

The World Bank has in recent years experimented with several approaches to deal with the relationship between its own social and environmental risk management ("safeguard") systems and those of its recipient countries. Its experiences offer valuable lessons for both the World Bank and other investors grappling with how to effectively work with national governments to reduce environmental and social risks. This report analyzes four of these approaches: the traditional safeguards approach, the "use of country systems" approach, the approach used for the World Bank's "program for results" investments, and the approach used for the Bank's development policy loans. Table 1 gives an overview of these approaches and the strengths and weaknesses of each identified in this analysis.

This report offers eight recommendations for the World Bank and other investors that want to balance ownership and accountability in their social and environmental policies. We recommend that investors:

1. Use recipient-country laws and institutions to enhance safeguard implementation.
2. Maintain strong safeguard policies to ensure social and environmental protection and provide positive examples for country systems.
3. Thoroughly research the strengths and weaknesses of the recipient country's safeguard system on paper and in practice.
4. Engage consistently in information gathering, problem solving, and collaboration with the country government and relevant stakeholders.
5. Invest in adequate human resources for both the investor and recipient government.
6. Provide the staff of both the investor and the host government with proper incentives to implement thorough safeguards.
7. Create clear requirements for the staff of both the investor and the host government, with an emphasis on substantive results.
8. Support citizen engagement throughout the investment process.





Section I

INTRODUCTION

We face a great task of supporting poverty reduction without compromising our global ecosystems. This reports looks at four approaches to reducing negative impacts of economic growth used by the World Bank.

The global community is faced with the enormous task of enhancing the wellbeing of a growing global population while reducing use of our dwindling natural resources. The world has witnessed remarkable economic growth over the past century, which has led to greater wealth for millions of people. In recent decades, the growth has also led to a shift in the global economic landscape as formerly poor countries like China and Brazil have become large-scale investors and poor countries in Southeast Asia and Sub-Saharan Africa receive record levels of foreign direct investment.² But global growth has not come without costs. Pollution, natural resource depletion, climate change, and the disruption of ecosystem services are now felt around the world. Many people still live in poverty, often made worse by environmental degradation.

This global landscape creates both opportunities and costs for global investors like public financial institutions, private banks, companies, bilateral donors, and others engaged in economic development. Economic growth in poor regions of the world has opened new investment opportunities and chances to support economic development. The vulnerability of global ecosystems means that though, now more than ever, we need to ensure that efforts in the name of economic growth do not bring negative consequences to our Earth's fragile environment or vulnerable people.

Global growth has not
come without costs:
Pollution, natural
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around the world.

Most countries have systems to help ensure that investments do not result in undue social or environmental harm. Unfortunately, these systems are sometimes unable to adequately protect their vulnerable people and ecosystems in a way that lives up to international standards, particularly in the face of large-scale investments. Corruption, impunity, understaffing, conflicts, and other challenges curtail the ability of some governments to protect people and ecosystems. Investors can help ensure that national laws are upheld, and that their activities do not result in further degradation of natural resources or violation of the rights of vulnerable people. If they do not, they risk undermining their own goals—be they to support economic growth of the country (for public financial institutions) or the company (for private actors).

One question facing many investors is how to integrate their own environmental and social risk-management systems—often called “safeguards”—with the laws and institutions of the country in which they are investing. When should the investor rely on the country's own system, and when should it substitute elements of its own? What benefits and risks are associated with use of the country's system versus that of the investor?

The World Bank, which invests in projects, programs, and policy changes in low and middle-income countries in the name of poverty reduction, has grappled with these and other safeguard-related questions since it began implementing social and environmental protections in the 1990s. Its efforts to reduce social and environmental harm have often provided lessons for other financial institutions and investors. In recent years, the World Bank has experimented with several approaches to dealing with the relationship between its own policies and those of the countries where it invests. This report looks at four of them. It highlights their strengths and weaknesses and draws lessons for the World Bank and other investors. The four approaches are:

- The “traditional” approach to safeguard for projects;
- The “use of country systems” approach to projects;

- The approach used for the World Bank’s results-based programs; and
- The approach used for the World Bank’s policy-based operations.

The World Bank uses different approaches for different types of finance. Two approaches are used for project loans, one for programmatic results-based loans, and one for loans for policy changes. Comparing the four approaches is not apples-to-apples. Nevertheless, the different ways these approaches guide Bank and government staff offer valuable lessons not just for the World Bank, but also for other investors seeking to create safeguard policies that balance ownership for recipient countries with accountability for ensuring protection for people and ecosystems.

Traditional Safeguards

The “traditional” safeguard approach consists of mandatory requirements that the World Bank and recipient country must follow before the project can be approved as well as during implementation. These safeguards apply to all investment projects, from infrastructure developments like roads or hydropower dams, to human development projects like health and education investments. Several other public finance institutions, including the regional development banks, have policies similar to the World Bank’s traditional safeguard policies.

Use of Country Systems

The World Bank adopted the second approach, the “use of country systems approach” (also called “use of borrower systems”) to experiment with using the host country’s rules and institutions as safeguards. It applies to the same type of projects as the traditional safeguards. This approach allows the recipient government to use its own systems—if the Bank finds they are “equivalent” to those of the Bank, and if the country’s track record is deemed “acceptable.” Equivalence is determined by the level of protection the recipient country’s rules provide, while acceptability refers to whether the systems are adequately implemented.

Program for Results

The World Bank’s “program for results” aims to enhance development effectiveness by delivering funding only on achievement of desired development results. It is the newest approach covered in this report. This type of funding is used for government programs, which often include a number of smaller projects.

Development Policy Loans

Finally, the World Bank’s development policy operations support changes in a country’s policies and institutions and can be associated with social and environmental protections. Development policy loans provide governments with fast-disbursing direct budget support.

This report is based on interviews with about 50 individuals from recipient governments, financial institutions, civil society, and the private sector. Most of the interviews took place in Washington, D.C., and on research trips to Vietnam, Tanzania, Kenya, and Cambodia—four countries chosen for their varied experiences with the four safeguard approaches. In addition, the authors reviewed official World Bank documents and secondary sources, including project documents, World Bank policies, and reports from the Bank’s Inspection Panel³ and Independent Evaluation Group.⁴

We examined how the four safeguard approaches deal with the relationship between country and investor systems, and the strengths and weaknesses of each approach. Strengths and weaknesses were determined by evaluating how each approach achieved the five functions of a safeguard system: assessing impacts, planning to deal with these impacts, implementing these plans, monitoring implementation, and responding to harm. Section 2 looks at the concept of a safeguard and the makeup of a safeguard system. Sections 3 through 6 analyze the traditional safeguard approach, the “use of country systems” safeguard approach, and the approaches to avoiding social and environmental harm associated with the World Bank’s program for results and development policy loans. Section 7 distills lessons and provides recommendations for how investors can structure safeguards to effectively navigate the relationship between country systems and investor systems. Section 8 concludes.



Section II

DEFINING SAFEGUARDS

Safeguards are not always easily defined. This section looks at what they are meant to protect and how they are meant to provide such protection.

Safeguards are meant to help ensure that investments are undertaken in a way that balances economic, social, and environmental interests.

We define “safeguard” as a rule or institution that helps ensure that investments meet minimum social, environmental, and governance standards. These rules and institutions can come from either the recipient country or the investor. We refer to a set of these rules and institutions as the “safeguard system.”

Safeguard policies emerged in the 1980s and 1990s, after the World Bank and other investors came under increased criticism for the environmental destruction and displacement of people caused by their investments. Safeguards were originally meant to ensure that the World Bank’s investments did not inflict unintentional harm. Other multilateral development banks, such as the Asian and Inter-American Development Banks, quickly followed suit and developed safeguard policies of their own. Recently, safeguards have been the center of attention in climate finance including, in particular, efforts to create the Green Climate Fund and to reduce deforestation and forest degradation in developing countries to reduce greenhouse gas emissions (known as REDD+).⁵

Safeguards are meant to help ensure that investments are undertaken in a way that balances economic, social, and environmental interests. They require investors to consider the potential negative consequences of their investments on people and ecosystems, and take steps to avoid, minimize, or mitigate those consequences. Although safeguards may be needed in many types of investments, they are especially important

for projects with large environmental footprints, such as new roads, power plants, hydroelectric dams, and large-scale plantations.

Traditionally, the rules and institutions of the recipient country have not been called “safeguards.” Instead, they were known simply as the country’s domestic laws, regulations, and public agencies for environmental impacts, land use, and protection of natural resources. In recent years, the term “safeguards” has increasingly referred not only to the policies of investors, but also to those of governments.

What Safeguards are Intended to Protect

Safeguards cover a variety of substantive areas in environmental and social management, from pollution control to land-use changes. Currently, no agreement exists on what safeguard policies should protect, although existing investor policies, national laws, and international agreements reveal some global trends.

The policies of international financial institutions tend, at a minimum, to provide protection for biodiversity and natural habitats, indigenous peoples, cultural heritage, and people whose access to land or other resources will be impacted by the investment (see Table 2). Some, like the International Finance Corporation (IFC), have expanded their protections to include concerns like labor and gender.

Governments have a variety of laws to protect people and the environment in the face of large-scale investments. At a minimum, domestic legal systems usually include laws aimed at protecting the environment and natural resources, as well as some degree of property and labor rights. Countries frequently also have laws to protect procedural rights, including access to information and grievance procedures.

Finally, international environmental and human rights agreements provide another source for international safeguard standards. These agreements give a picture of which substantive areas the global community agrees are worth protecting. They include, for example, the Convention on Biological Diversity, the International Covenant on Civil and Political Rights, and the United Nations Declaration on Indigenous Peoples (see Box 1).

Table 2 | **Substantive Areas Commonly Covered by Safeguard Policies**

SUBSTANTIVE AREAS	COVERAGE IN POLICIES OF FINANCIAL INSTITUTION ^a					
	ADB	AfDB	EBRD	IDB	IFC	WB
Environmental and/or social impact assessments	Yes	Yes	Yes	Yes	Yes	Yes
Biodiversity/natural habitats	Yes ^b	Yes	Yes	Yes	Yes	Yes
Pollution prevention	Yes ^b	Yes	Yes	Yes	Yes	Yes
Climate change mitigation	Yes	Yes	Yes	Yes	Yes	Yes ^c
Rights of indigenous peoples	Yes	Yes	Yes	Yes	Yes	Yes
Involuntary resettlement (of people)	Yes	Yes	Yes	Yes	Yes	Yes
Labor, health, safety	Yes ^b	Yes	Yes	No	Yes	No
Cultural heritage	Yes ^b	Yes	Yes	Yes	Yes	Yes
Transparency	Yes	Yes	Yes	Yes	Yes	Yes
Consultation requirements	Yes	Yes	Yes	Yes	Yes	Yes
Grievance procedure	Yes	Yes	Yes	Yes	Yes	Yes

Notes: ADB=Asian Development Bank, AfDB=African Development Bank, EBRD=European Bank for Reconstruction and Development, IDB=Inter-American Development Bank, IFC=International Finance Corporation, WB=World Bank.

- a. Please note that the situation at each institution is more complex than it may appear in the table. For instance, the table lists available policies, but does not consider the strength of these policies or the degree to which they are implemented. It also does not include policies, strategies, or guidelines that are not considered safeguards by the institution.
- b. Covered in policy related to environmental and social assessments.
- c. World Bank operational policy 4.01 states that environmental assessments should consider “global environmental issues.” A footnote states that this includes “climate change, ozone-depleting substances, pollution of international waters, and adverse impacts on biodiversity.”

BOX 1 | EXAMPLES OF INTERNATIONAL AGREEMENTS OUTLINING SAFEGUARD NORMS AND BEST PRACTICES

The International Covenant on Civil and Political Rights: 167 states are party to this agreement, which explains the civil and political rights listed in the Universal Declaration of Human Rights. Norms for investments affecting vulnerable communities include the right to legal recourse when their rights are violated (article 2); the right to life and survival (article 6); the right to equality before the law and equal protection (article 26); and the rights of members of religious, ethnic, or linguistic minorities (article 27).

Convention on Biological Diversity: 193 states are party to this convention, which sets out rules for the protection of biodiversity and encourages fair sharing of benefits from the use of genetic resources. The convention is accompanied by the Cartagena Protocol on Biosafety (with 166 parties) and the Nagoya Protocol on Access and Benefits-sharing (which 92 countries have signed, and 26 ratified as of 2013).

United Nations Declaration on the Rights of Indigenous Peoples: a nonbinding declaration adopted in September, 2007 by the United Nations General Assembly, which emphasizes the unique rights of indigenous peoples

International Covenant on Economic, Social, and Cultural Rights: 160 states had ratified this treaty as of 2013. It guarantees the right of self-determination, including the right to freely pursue economic, social, and cultural development (article 1); the right to work (article 6); the right to just conditions of work (article 7); the right to food, clothing, and housing (article 11); and the right to the highest attainable standard of health (article 12).

Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention): This convention grants the public the right of access to information, participation, and justice concerning the environment. As of October 2013, 46 countries were party to the Aarhus Convention.

Extractive Industries Transparency Initiative (EITI): EITI is a global initiative that requires signing countries to disclose the revenue they receive from oil, gas, and mining company operations. It has established a reporting process that promotes transparency and is overseen by a board of representatives from government, industry, and civil society.⁶ EITI has 20 compliant countries and another 17 candidates.

Minimum Standards

Drawing the Line

Besides deciding what to protect, a safeguard system guides the level of protection. For example, a safeguard system may require project operators to avoid pollution, but if pollution is unavoidable, to specify the pollution levels that the operator must not exceed. Similarly, some safeguard rules state not only that resettled people should be treated fairly but, more specifically, who should be considered a resettled person and what type of treatment they should receive.

Safeguard systems at different institutions provide varying degrees of guidance as to what constitutes adequate protection for people or ecosystems.

Country safeguard systems can be more specific than the systems of international institutions, which need to be flexible enough to deal with different country contexts.

Defining “Do No Harm”

Safeguards are minimum standards. They are the safety net to ensure that planned changes do not create unacceptable negative consequences. Safeguards are associated with the concept of “do no harm,” which is thought of as not making things worse than before the investment occurred. However, “do no harm” should not be confused with maintaining the status quo.

Many developing countries struggle with access to water, sanitation, food, or decent housing. A strong safeguard system ensures that affected people’s standard of living is not only maintained but improved in some cases; it at least ensures that

Table 3 | **Examples of Safeguard Rules of Investors versus Recipient Countries**

Investor	<ul style="list-style-type: none"> ■ Safeguard policies related to social and environmental protections ■ Information disclosure policies ■ Policies governing accountability mechanisms ■ Policies governing different types of finance, such as finance for projects or policies ■ Laws of donor country if applicable (e.g. for bilateral donors)
Recipient Country	<ul style="list-style-type: none"> ■ Laws or regulations requiring environmental and social impact assessments ■ Laws or regulations requiring environmental management plans or land-use plans ■ Customary or religious law, such as laws governing land tenure within an indigenous community ■ Policies and operational manuals of implementing institutions, such as the policies of the environmental agency ■ National laws related to civil procedure or public administration, including freedom of information laws ■ Case law, such as judicial decisions regarding the rights of indigenous peoples or the protection of natural resources ■ Customary or religious law, such as laws governing land tenure within an indigenous community

affected people feel their needs have been considered. The Asian Development Bank’s (ADB’s) safeguard policy embodies this idea. It requires the ADB to improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas this means providing them with legal and affordable access to land and resources, and in urban areas with appropriate income sources and legal and affordable access to adequate housing.⁷

Infrastructure of Safeguards

A complete safeguard system not only spells out the social and environmental areas to protect, it provides the infrastructure to ensure protection. This infrastructure consists of rules and institutions that work together to anticipate, plan, manage, monitor, and respond.

Rules

The rules of a safeguard system spell out rights and responsibilities. In public financial institutions like the World Bank, safeguard rules are usually

embodied in policies that recipient countries or companies must agree to before they can receive a loan or grant. These policies include both substantive and procedural requirements. For example, investors often ask the funding recipient to conduct an environmental impact assessment to determine the project’s environmental impacts—a procedural requirement. A substantive rule might prohibit high-impact projects in protected areas. Investors also typically have policies governing access to information and accountability mechanisms.⁸

At the country level, safeguard system rules come in a variety of forms. National laws, like environmental laws, land-use laws, or freedom-of-information laws often outline basic rights and responsibilities. Such laws are accompanied by regulations, policies, and guidelines specifying the conduct of the government and others engaged in investments. Table 3 shows examples of safeguard rules for investors and countries.

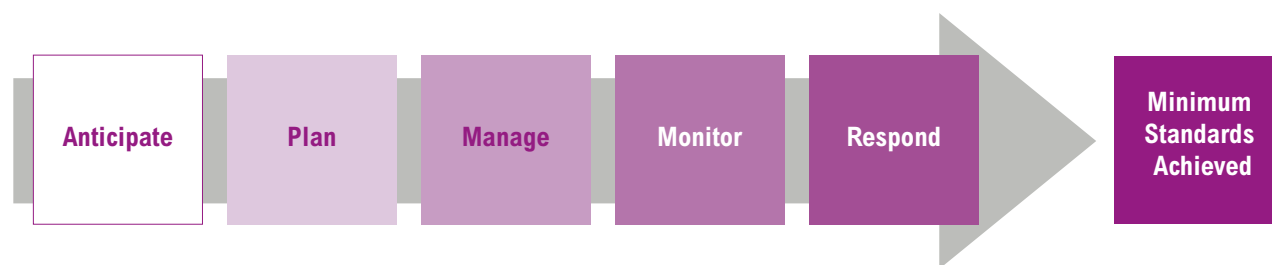
Institutions

Rules are only valuable if people implement them. The investors usually have departments or positions responsible for different elements of the safeguard

Table 4 | **Examples of Safeguard Institutions**

Investor	<ul style="list-style-type: none"> ■ Management and board of investor institution ■ Team at project level ■ Monitoring teams ■ Compliance unit(s) ■ Independent accountability mechanism(s)
Recipient Country	<ul style="list-style-type: none"> ■ Government agencies overseeing impact assessments, such as environment agencies or public health agencies ■ National, subnational, or local legislative bodies ■ Multistakeholder bodies ■ Civil, criminal, or administrative courts at national, local, and international levels ■ National and subnational law enforcement agencies ■ Universities and scientific research institutes

Figure 1 | **Functions of a Safeguard System**



system. Multilateral Development Banks (MDBs), for example, usually have staff on two levels: (1) direct project support, which includes environmental and social specialists that work directly with the client counterparts to meet the safeguard requirements, and (2) a compliance unit, which reviews projects to make sure their safeguards are consistent with company policies.

At the country level, government agencies, legislative bodies, judicial systems, departments within the investing institution, and others provide functions in the safeguard system (see Table 4). The number of actors and their arrangement varies among countries.

Functions

Combined, the rules and institutions for both the investor and recipient country should:

1. **Anticipate** social and environmental impacts,
2. **Plan** to avoid, minimize, or mitigate those impacts,
3. **Manage** implementation of those plans,
4. **Monitor** implementation, and
5. **Respond** to challenges that arise.⁹

A safeguard system will only be effective if it can provide all five of these functions (see Figure 1).

Anticipate

Anticipating impacts involves determining the potential positive and negative effects of the investment on the areas of concern (like biodiversity or labor rights), as well as the scope and scale of potential impacts. Public financial institutions tend to use—or require borrowers to use—multiple tools to assess potential harm. The tool required depends



on the type of financing and the safeguard approach. Many countries have laws requiring environmental impact assessments (EIAs) for projects that may significantly affect people or the environment (see Box 2 for an example from Thailand). Participation of affected stakeholders, including vulnerable groups like women and ethnic minorities, is key to any effective impact assessment exercise. Financial institutions often require borrowers to disclose information and conduct stakeholder consultations as part of their impact-assessment process.

Plan

After anticipating an investment's potential impacts on people and the environment, plans should be made to avoid, minimize, or mitigate these impacts. The plans could include changing or canceling all or part of the investment, or putting in place protections to ensure that potential harm is reduced. The public financial institutions typically require borrowers to produce plans to manage potential environmental or social impacts revealed in assessments.

Manage

The term “manage” is used here to describe implementing plans to avoid, minimize, or mitigate harm. Implementation includes following the steps

outlined in the relevant policies, laws, or project plans. The management phase is where some of the largest challenges arise in recipient country systems, since implementation of laws, regulations, and plans requires adequate human and financial resources, and political will.

Monitor

Monitoring the success or failure of efforts to protect people and the environment is a key element of a functioning safeguard system. Financial institutions generally require monitoring reports on how safeguards are being implemented. Reporting requirements vary depending on the type of funding and severity of the potential impacts. Countries use various methods to monitor investment impacts, including law enforcement agencies, human rights ombudsmen, independent monitors, and community-based monitors. Monitoring is easier with certain types of investments than with others. For example, it is easier to monitor the environmental effects of a new infrastructure project than a new national land policy, which may result in multiple conflicting effects on ecosystems across the country.

BOX 2 | THAILAND'S ENVIRONMENTAL SAFEGUARD SYSTEM

The substantive requirements of Thailand's environmental safeguard system are found in a variety of laws and regulations, including the Constitution, the Enhancement and Conservation of the National Environmental Quality Act, and laws related to pollution and the protection of national resources. Thailand uses the following rules and institutions to help ensure that minimum standards are not breached by new projects.

	RULES	INSTITUTIONS
Anticipate	<ul style="list-style-type: none"> ■ Section 67 of Thailand's Constitution requires environmental impact assessments for any activities that may significantly harm the environment, natural resources, or the health of people. ■ Part four of the Enhancement and Conservation of the National Environmental Quality Act B.E. 2535 (1992) (NEQA) and accompanying Ministerial orders spell out how to implement environmental impact assessments. 	<ul style="list-style-type: none"> ■ The Environmental Impact Evaluation Bureau of the Office of Natural Resources and Environmental Policy and Planning (ONEP) oversees the EIA process. ■ The agency giving the permit (e.g. a mining concession or construction permit), should wait until the EIA is complete. ■ Private consultants, which should be registered with ONEP, usually prepare the EIA. ■ The Expert Review Committee, which consists of specialists from relevant fields, is responsible for approving the EIA. ■ If the project proponent is a public entity, the EIA goes to the National Environment Board, which can recommend changes then and submit the EIA to the final decisionmaker—the Cabinet.
Plan	<ul style="list-style-type: none"> ■ NEQA requires EIA reports to include plans to avoid, mitigate, or compensate for damage, as well as to monitor compliance. 	Same as above.
Manage	No additional rules	<ul style="list-style-type: none"> ■ The project operator has primary responsibility for carrying out the plans outlined in the EIA and related documents. ■ Contractors often construct or implement the project.
Monitor	<ul style="list-style-type: none"> ■ NEQA sections 80-82 spell out requirements regarding monitoring and inspection. ■ Hazardous Substance Act, section 54 outlines monitoring requirements for hazardous substances. 	<ul style="list-style-type: none"> ■ The project operator should ensure implementation of the monitoring plan created as part of the EIA. ■ If the project is a point source of pollution: <ul style="list-style-type: none"> □ The owner or operator is legally required to collect data on the daily functioning of the facility and submit reports summarizing the results monthly (NEQA 1992 sec. 80). □ A pollution control official from the Ministry of Science, Technology and Environment receives pollution information on the project via local officials, and has the right to inspect project sites (NEQA 1992 sec. 81-82). ■ If relevant, the ministry that oversees relevant hazardous substances (such as the Minister of Agriculture and Cooperatives or the Minister of Public Health) can monitor use of that substance (Hazardous Subst. Act sec. 54). ■ The National Environment Board can request information related to environmental protection from public or private actors.

BOX 2 | THAILAND'S ENVIRONMENTAL SAFEGUARD SYSTEM (CONTINUED)

	RULES	INSTITUTIONS
Respond	<ul style="list-style-type: none"> ■ NEQA chapter 6 covers civil liabilities for violation of the NEQA; chapter 7 provides criminal penalties. ■ Other laws providing penalties for environmental harm include: the Factory Act, Harbor Act, Public Irrigation Act, Fisheries Act, Hazardous Substances Act, National Parks Act and the National Reserved Forests Act. 	<ul style="list-style-type: none"> ■ The project operator should be the first line of defense against problems. ■ The pollution control official from the Ministry of Science, Technology and Environment can order the project operator to change or stop operations. ■ The public prosecutor can sue liable persons for the costs of removal or remedial action. ■ The court system can adjudicate violations of environmental law.

Respond

Finally, an important function of safeguard systems is to respond if problems arise. Problems may result from improper implementation of the safeguard protections, or they may occur despite proper implementation of safeguard plans. Different problems will necessitate different responses. For example, project implementation may need to be slowed, altered, or halted, or reparations may need to be paid for harm done. Many public financial institutions have independent grievance mechanisms, which can respond to complaints from affected communities with various degrees of authority. At the country level, the legal system can respond to breaches of the law. Other types of grievance and alternative dispute resolution procedures, such as those traditionally used by affected communities, may ensure a response to harm.

Box 2 outlines the main elements of Thailand's environmental safeguard system.

The Relationship between Investor and Country Safeguard Systems: Ownership versus Accountability

Investors will benefit from combining the best country and investor safeguard systems to protect vulnerable people and ecosystems. The two types of systems have different strengths and weaknesses.

Using the country's existing systems can, for example, increase country "ownership" over the investment process. This report defines "ownership" broadly as the public and its representative government having decisionmaking power over activities taking place in their country.¹⁰ Developed countries have committed to supporting such recipient-country ownership in the context of development finance in the 2005 Paris Declaration on Aid Effectiveness (Paris Declaration) and subsequent agreements in Rome, Accra, and Busan.¹¹ Box 3 provides an example of how Vietnam is trying to implement the Paris Declaration through its Hanoi Core Statement on Aid Effectiveness.

Development finance institutions increasingly embrace the concept of ownership. In recent years, the World Bank, the Asian Development Bank, and the Inter-American Development Bank have created

BOX 3 | PARIS DECLARATION IN ACTION: THE EXAMPLE OF VIETNAM

The Government of Vietnam was one of the first countries to officially “localize” the Paris Declaration on Aid Effectiveness, which lays out responsibilities for recipient countries and donors. The Hanoi Core Statement on Aid Effectiveness brings together the government and the country’s main development partners, including development banks and bilateral donors.^a The Core Statement provides 28 partnership commitments and 14 indicators aimed at implementing the Paris Declaration in the Vietnamese context.

Indicator 8 of the Core Statement deals with environmental and social safeguards, with a focus on environmental impact assessments (EIA). The government and its partners created a thematic group to work on EIAs, which was later replaced by a technical working group.

The Swedish International Development Cooperation Agency (SIDA), the World Bank, the Asian Development Bank (ADB), and other donors agreed to fund efforts to strengthen the rules and institutions responsible for EIAs in Vietnam.

In 2005, Vietnam passed a new environment law covering EIAs. Since then, the government has issued several decrees directed at EIAs. The ADB invested in strengthening country systems through three approaches. First, it recommended steps to ensure that the law governing implementation of EIAs in Vietnam lives up to international standards. Second, ADB assessed the institutional capacity to implement the law. Third, it developed an action plan for strengthening implementation of new assessment procedures, including at the district level.^b

Vietnam’s commitment to strengthening its systems, and the support it received from donors, have significantly improved legal and institutional framework for EIAs. Its laws are now considered to nearly meet international standards, with weaknesses remaining mainly in consultation requirements. The government plans to review its environmental law during 2013–14. This review will offer an opportunity to harmonize Vietnamese law with international standards. However, implementation of the legal framework remains a challenge. Although the Ministry of Natural Resources and Environment is committed to implementation, its enforcement power is limited and there is little implementation capacity at local levels.

Notes:

a. Government of Vietnam, Hanoi Core Statement on Aid Effectiveness: Ownership, Harmonization, Alignment, Results, June 3, 2005.

b. Asian Development Bank, *Subproject Proposal: Vietnam, Capacity Development for the Implementation of the New Environment Decree* (Manila, Philippines; Asian Development Bank, 2011).

policies that allow the use of recipient country’s rules and institutions to protect their people and environment from harm. The Adaptation Fund provides “direct access” to funding for recipient country institutions who meet certain criteria.¹² The Green Climate Fund is looking to follow suit (see Box 4).

The emphasis on ownership has emerged from recognition that, under the right circumstances, greater ownership can make development efforts more effective. According to the Paris Declaration, “using a country’s own institutions and systems, where these provide assurance that aid will be used for agreed purposes, increases aid effectiveness by strengthening the partner country’s sustainable capacity to develop, implement and account for its policies to its citizens and parliament.”¹³

Unfortunately, where country systems are not strong enough to protect people or the environment, relying on them to boost country ownership can reduce rather than enhance protection. Investors are therefore faced with the question of how to build a system that takes advantage of the benefits of country ownership under the right circumstances, and avoids doing so when the risks are too high.

Through the years, investors have used different methods to deal with the social and environmental impacts of their investments. These methods have used existing country safeguard systems in different ways and to varying degrees. The following sections explore experiences from the World Bank. The four safeguard approaches are presented according to the degree to which they rely on the recipient country’s safeguard systems—from least to most reliance.

BOX 4 | SAFEGUARDS AND CLIMATE FINANCE

Emphasis on recipient-country ownership is clear in the context of “climate finance”—finance aimed at supporting mitigation of climate change and adaptation to its effects. Historic, social, and economic differences among countries have played an influential role in climate negotiations under the United Nations Framework Convention on Climate Change. Developed countries have promised funding to developing countries to help them develop on a different path than that taken by today’s rich nations. Developing countries, in turn, have emphasized their right to such support, as well as their right to continue to pursue economic growth. Wealthier countries have committed to providing US\$100 billion per year in climate finance by 2020.^a

The emphasis on finance for climate change mitigation and adaptation has led to the creation of several funds,

including two established by Parties to the UNFCCC: the Adaptation Fund and the Green Climate Fund. These funds have committed to giving countries the option of “direct access” to finance. “Direct access” is defined as receiving finance directly from the fund without the involvement of regional or international financial intermediaries (like the multilateral development banks).^b

The Adaptation Fund has been experimenting with direct access to finance since 2010, when it began to accredit national implementing entities (NIEs). A country can only receive direct access if a national institution receives such accreditation, otherwise the country must use a regional or international implementing entity. By November 2013, 15 NIEs had received accreditation.^c According to the Adaptation Fund’s board, entities are more likely to gain accreditation if they have worked with

multilateral or bilateral donors.^d Notably, NIE accreditation has not involved an assessment of the NIE’s safeguard system, only its procurement systems. In early 2013, however, the board of the Adaptation Fund called for the creation of safeguard principles, which will likely influence the accreditation process going forward.

The Green Climate Fund is still in the formation stage and has yet to disburse funding as of spring 2014. It holds promise of becoming the most prominent financial institution for climate finance. Its board is responsible for developing “environmental and social safeguards...that are internationally accepted.”^e The Green Climate Fund also aims to “support the strengthening of capacities in recipient countries, where needed, to enable them to meet the Fund’s environmental and social safeguards.”^f

Notes:

- a. UNFCCC, Decision 1/CP.16, The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, para. 98.
- b. UNFCCC, Decision 3/CP.17, Launching the Green Climate Fund, Annex Governing Instrument for the Green Climate Fund, para. 31.
- c. Adaptation Fund, Accredited National Implementing Entities, <https://www.adaptation-fund.org/national-implementing-entities> (last accessed March 14, 2014).
- d. Adaptation Fund, “The Adaptation Fund and Direct Access,” Memorandum, October 2012.
- e. UNFCCC, Decision 3/CP.17, Launching the Green Climate Fund, Annex Governing Instrument for the Green Climate Fund, para. 18(e).
- f. *Id.* para. 66.



Section III

TRADITIONAL SAFEGUARDS

The World Bank's traditional safeguard policies are used for most of the bank's investments in projects. This section looks at the strengths and weaknesses of this approach to social and environmental protection.

Overview of Traditional Safeguards

Traditional safeguard policies apply to investment projects, which can cover activities from infrastructure developments to health or education projects. The World Bank first created this type of policy in the 1990s in response to public outcry at the environmental destruction and social upheaval caused by some of the projects it funded. Since that time, a large number of public and private investors have developed similar policies, often in the face of international public pressure to take responsibility for the negative effects of their investments.

All the regional development banks have safeguard policies similar to the World Bank's traditional safeguards. They include the Asian Development Bank's Safeguard Policy Statement,¹⁴ the Inter-American Development Bank's Environment and Safeguard Compliance Policy,¹⁵ the European Bank for Reconstruction and Development's Environmental and Social Policy,¹⁶ and the African Development Bank's Integrated Safeguard System.¹⁷

As of spring 2014, the World Bank was reviewing its traditional safeguard policies; its current policies were analyzed for this report. They included six safeguard policies focused on environmental risks, two on risks to vulnerable people,¹⁸ and two legal policies that concern cooperation between neighboring states.¹⁹ The World Bank also has policies regarding transparency and grievances.²⁰

Country Systems and Traditional Safeguards

Traditional safeguard policies require close Bank supervision over safeguard processes. Traditional safeguards emerged in the face of public outcry at the harm caused by bank-funded projects, harm that was too large for national laws and institutions to adequately avoid or mitigate. Thus traditional safeguards were designed to provide another layer of protection (over the country layer) to ensure that projects funded by the Bank met international standards of social and environmental protection. Day-to-day implementation of the safeguards, though, is largely the responsibility of the recipient government.

Anticipate

Traditional safeguard policies outline requirements for assessing potential social and environmental impacts. The policies spell out when different types of assessments are required, and what these assessments should consider.²¹ At the World Bank, staff members are required to screen each project and categorize it based on the type and severity of potential impacts. Based on this initial screening the Bank labels the investment as category A, B, or C to indicate the type of further assessments required. Governments are then responsible for conducting these assessments according to Bank guidelines for the relevant category. Governments can borrow from the Bank to cover assessment costs,²² or they can tap into other sources, including supplemental grants from other donors, such as bilateral aid agencies. The recipient government will frequently hire a consultant familiar with the Bank's policies to complete the assessment, and then subject the assessment to internal review within the relevant ministries. The Bank, in turn, checks and approves the quality of the assessment before the project moves forward.

Traditional safeguard policies for anticipating impacts require public consultation and disclosure. The World Bank's environmental assessment policy, for instance, requires consultation with affected communities at least twice for category A projects: once before the terms of reference for the project have been completed, and once when the draft assessment is finished.²³ Governments are asked to report to the Bank on these consultations.²⁴



Plan

Traditional safeguard policies spell out relatively detailed requirements for plans to reduce environmental and social impacts, depending on the findings of the environmental assessment. Common plans include environmental management plans, resettlement plans and indigenous peoples plans. As with environmental and social assessments, governments are responsible for creating these management plans, while the Bank is responsible for ascertaining whether the plans meet Bank requirements. The plans must be completed and approved before any money is released to the country. Box 5 gives an example of planning requirements under the World Bank's indigenous peoples policy.

Manage

Implementing social and environmental management plans is primarily the government's responsibility. World Bank staff members provide advisory support. The government is required to, for instance, resettle people according to the resettlement plan, and establish environmental protections in accordance with the environmental management plan. Governments will often hire contractors to implement the project. The contractor then becomes the first line of defense against social and environmental harm. The World Bank frequently requires the creation of a project implementation unit consisting of government staff to oversee implementation, including safeguards.²⁵ As with assessments and management plans, the Bank typically requires the government to pay for implementation of the assessments and management plans, but will provide financing if the government requests it. Third parties (like bilateral donors) may provide grants for this work as well.

Monitor

Both the Bank and governments are involved in monitoring safeguard implementation. Because implementation is the responsibility of the recipient government, governments usually use their existing systems to track a project's day-to-day progress (see Box 6). Often several levels of government will be involved. The Bank, in turn, is required to keep track of whether the government is fulfilling its own safeguard obligations.

BOX 5 | WORLD BANK INDIGENOUS PEOPLES PLAN REQUIREMENTS

World Bank operational policy (O.P.) 4.10 requires that governments create an indigenous peoples plan (IPP) if indigenous peoples will be affected by a proposed operation. The plan must include:

- A summary of the social assessment;^a
- A summary of results of the free, prior, and informed consultation with the affected indigenous peoples' communities that was carried out during project preparation and that led to broad community support for the project;
- A framework for ensuring free, prior, and informed consultation with the affected indigenous peoples' communities during project implementation;
- An action plan of measures to ensure that the indigenous peoples receive social and economic benefits that are culturally appropriate, including, if necessary, measures to enhance the capacity of the project implementing agencies;
- An appropriate action plan of measures to avoid, minimize, mitigate, or compensate for potential adverse effects;
- Cost estimates and financing plan for the IPP;
- Accessible procedures to address grievances by the affected indigenous peoples' communities arising from project implementation; and
- Mechanisms and benchmarks appropriate to the project for monitoring, evaluating, and reporting on the implementation of the IPP.^b

The Bank reviews the plan to ensure that it "has been made available to the affected indigenous peoples' communities at an accessible place and in a culturally appropriate form, manner, and language; has been appropriately reflected in the project design; and can serve as the basis for project appraisal."^c

Notes:

a. A social assessment includes, among other things, "baseline information on the demographic, social, cultural, and political characteristics of the affected Indigenous Peoples' communities, the land and territories that they have traditionally owned or customarily used or occupied, and the natural resources on which they depend." It should also identify "key project stakeholders and the elaboration of a culturally appropriate process for consulting with the Indigenous Peoples at each stage of project preparation and implementation." World Bank, OP 4.10, Annex A.

b. World Bank, O.P. 4.10, Annex B, para. 2(i).

c. World Bank, B.P. 4.10, para. 9.

The specifics of Bank monitoring activities depend on the institution and type of project. Typically, the Bank reviews government reports, communicates with implementing agencies, and conducts site visits, with varying frequency. For example, the Bank may send staff to risky or high-profile projects monthly; whereas for other projects, staff may visit only once or twice a year. Bank monitoring generally ceases once the project is closed. In rare cases, it is extended. For example, the World

Bank set up an independent assessment group to monitor effects of the Chad-Cameroon pipeline—a controversial project to create an oil pipeline from southern Chad to Cameroon’s coast—for 10 years.²⁶ Occasionally, the Bank may require the engagement of third parties in monitoring, including independent monitors or civil society organizations. The Bank discloses some, but not all, monitoring reports to the public.²⁷

BOX 6 | RECIPIENT COUNTRY MONITORING SYSTEMS – EXAMPLE FROM THE PHILIPPINES

Although traditional safeguards have the most detailed requirements of the approaches considered here, government systems still play a role in all phases of safeguard implementation, particularly if the government systems are strong. Under the traditional safeguards approach, governments typically base their safeguard systems on existing structures, and add requirements as necessary to ensure that they adhere to World Bank policies. Thus even under the traditional safeguard approach, if national processes are strong, the Bank will rely on them to a large degree.

The Philippines provides an example. A joint 2007 World Bank-Asian Development Bank assessment of the Philippines’ system for environmental impact statements found that the system was “perhaps one of the most elaborate and comprehensive environmental assessment systems in the world.”^a In the

Philippines, the Environmental Management Bureau, part of the Department of Environment and Natural Resources, is responsible for reviewing Environmental Impact Statements and monitoring their implementation.^b For high-risk projects, a multi-partite monitoring team (MMT) composed of stakeholders, local governments, nongovernmental organizations, community members, and the private sector helps monitor implementation of assessments and management plans.^c According to the Filipino government, MMTs are “organized to encourage public participation, to promote greater stakeholders’ vigilance and to provide appropriate check and balance mechanisms in the monitoring of project implementation.”^d

Implementation is not without problems. The 2007 assessment found, for example, that the Environmental Management Bureau was understaffed

and underfunded, particularly in relation to compliance monitoring, and that the bureau was only able to monitor about 18 percent of the projects that received compliance certificates.^e

Nonetheless, because the Philippines has strong rules for assessing and monitoring environmental impacts, the government can usually rely on its system to implement traditional safeguards. For example, the Philippines’ national laws and regulations governing environmental assessments provided the safeguard framework for a recent Bank investment in wastewater treatment for metro Manila. Relatively minor gap fillers were added to adhere to the Bank’s standards.^f

Notes:

- a. Josefo B. Tuyor, *The Philippine Environmental Impact Statement System: Framework, Implementation, Performance and Challenges*, Discussion Paper, World Bank, East Asia and Pacific Region, Rural Development, Natural Resources and Environment Sector (Washington, DC: World Bank, 2007) 29.
- b. Government of the Philippines, Presidential Decree No. 1586, Establishing an Environmental Impact Statement System Including Other Environmental Management Related Measures and for Other Purposes (1978).
- c. Department of Environmental and Natural Resource Bureau of Republic of the Philippines, The Philippines Environmental Impact Assessment System, <http://www.emb.gov.ph/eia-adb/mon-how.html> (last accessed March 22, 2013).
- d. *Id.*
- e. Josefo B. Tuyor, *The Philippine Environmental Impact Statement System: Framework, Implementation, Performance and Challenges*, Discussion Paper, World Bank, East Asia and Pacific Region, Rural Development, Natural Resources and Environment Sector (Washington, DC: World Bank, 2007) 32.
- f. Republic of the Philippines, *Environment and Social Safeguards Framework (ESSF) Metro Manila Wastewater Management Project* (Washington, DC: World Bank Group, 2012) 16.

Respond

As with monitoring, the Bank and recipient governments share responsibility for responding to problems and challenges that arise under traditional safeguards policies. The borrowing government is responsible for the greater share of this function. Governments respond to day-to-day problems by, for instance, engaging in additional outreach to resettled households, or replacing a contractor that has not conformed to agreed policies. Significant changes in safeguard implementation are made in consultation with Bank staff. The Bank cannot always respond directly to problems. For

example, if the government has contracted with a third party to perform work, the Bank has limited leverage to influence the contractor because it is not party to the contract.

Box 7 gives an example of response mechanisms in Tanzania. The project uses African Development Bank (AfDB) funds, but follows safeguards similar to the World Bank's traditional safeguard policies.

The World Bank also provides an accountability mechanism through which affected communities can register complaints. In response, the Bank's

BOX 7 | RESETTLEMENT IN TANZANIA

Effective implementation of safeguard systems typically requires government and investor engagement in responding to unexpected events.

The value of constant problem solving is seen in a Tanzanian project funded by the African Development Bank (AfDB) and EcoEnergy, a Swedish company. EcoEnergy invested in 20,000 hectares of land on which it planned to grow sugar for consumption and biofuel. The land, a former government-owned cattle farm, was used by about 1,200 people for farming, grazing, and charcoal production.^a EcoEnergy had faced criticism for inadequately considering the needs of the people residing on the land.^b Because of this criticism, as well as AfDB safeguard requirements, the company hired a consultant to implement a resettlement plan. The consultant hired a team of 10 young Tanzanian professionals to support the relocation

process and facilitate understanding with the local people living on and adjacent to the EcoEnergy project land.^c

The team spent several months learning the history, views, and interests of the people residing on or using the land. As a result of this engagement, the team was able to identify appropriate changes to the plan. For example, it negotiated with EcoEnergy to carve out 2,400 hectares of project land for use by pastoralists, created a licensing scheme for charcoal producers, and conducted vocational trainings in, among other things, reading and writing, cellphone use, carpentry, welding, driving, and poultry keeping.^d The time spent with the community also allowed the team to personally get to know those being resettled, and to protect those most vulnerable to change, including young people and woman-headed households.

The team also came to better understand relationships between farmers and pastoralists, who have historically been in conflict. Through engagement with each community, they were able to allow each to identify its most pressing needs and potential solutions. This process resulted in the first boarding school in the region to serve children from pastoral families who must move frequently to find pasture for their cattle, and a unique joint cattle trough to accommodate both Maasai and Barbaig cattle—neither of which were in the original resettlement action plan.^e Finally, the team worked to facilitate communication between the communities and the local and national government. The project still faces challenges, but the consultancy team's long-term engagement in identifying and responding to challenges has significantly improved the chances for a successful project.

Notes:

- a. African Development Bank Group, *Resettlement Action Plan, Bagamoyo Sugar Project*, P-TZ-AAG-003; Emma Li Johansson, *A Multi-Scale Analysis of Biofuel-Related Land Acquisitions in Tanzania with Focus on Sweden as an Investor*, Student thesis series INES Nr. 288 (2013).
- b. Mats Widgren, "Swedish Land Grab in Tanzania Causes Protests," *farmlandgrab.org*, March 22, 2012.
- c. IDC, "Early Measures," Tanzania Newsletter March 2013, <http://www.idc-ltd.org/tanzania-newsletter-march-2013> (last accessed March 14, 2014); IDC, "Pastoralists and Resettlement in Tanzania?," Tanzania Newsletter June 2013, <http://www.idc-ltd.org/tanzania-newsletter-june-2013> (last accessed March 14, 2014).
- d. *Id.*
- e. *Id.*



Inspection Panel investigates whether the Bank has complied with its own policies. While the Inspection Panel can consider all types of investments, the majority of claims relate to operations applying traditional safeguards.

Once a project is complete, the Bank is generally no longer responsible for ensuring safeguards. The Inspection Panel can review a complaint until 95 percent of funding has been disbursed, after which it loses jurisdiction.²⁸

Strengths and Weaknesses of Traditional Safeguards

Strengths

High investor engagement in ensuring accountability

The main strength of traditional safeguard policies is their success in reducing negative impacts on people and the environment. Although traditional safeguard policies have not prevented all harm, they

have decreased the chance that Bank-funded projects will result in severe social and environmental damage.²⁹ They give communities access to stronger decisionmaking and accountability mechanisms than what might otherwise be available in many developing countries. They have also allowed the Bank to implement projects in areas where the government could not adequately mitigate social and environmental concerns on its own. People working in government agencies related to safeguards, like national environment agencies, frequently express gratitude for the safeguards of financial institutions. In Kenya, for example, staff at the National Environmental Management Authority (NEMA) reported appreciation for the requirements of the World Bank and similar investors, which help ensure that environmental laws are implemented. According to NEMA employees, the agency sometimes does not even know that a project is taking place unless an outside actor, like an investor, requires environmental protections.

International standards provide an example for national institutions

Traditional safeguards have offered a benchmark for national and international institutions. In Vietnam, for instance, the government recently enacted a resettlement decree that in several ways reflects the resettlement policy of the World Bank.³⁰ In Uganda, the Ministry of Local Government has used the World Bank Resettlement Policy Framework to guide local authorities.³¹ In Thailand, the regulations on environmental impact assessment are modeled on the World Bank's processes. Internationally, other financial institutions have pulled lessons from the World Bank safeguard policies. Bilateral donors such as the Japanese International Cooperation Agency are following suit.³²

In implementing the World Bank's traditional safeguard policies, government employees in developing countries gain experience in social and environmental protection. Governments often have adequate rules to protect people and the environment, but inadequate implementation. Collaboration between Bank and government staff in implementing safeguard systems appears to have helped give government employees experience with successful implementation of social and environmental

protections. In particular, the transparency and consultation requirements of traditional safeguards have helped encourage input from citizens in borrowing countries, a key element in any safeguard system (see Box 8 for an example from Vietnam).

Weaknesses

Several weaknesses of the traditional safeguard approach relate to the disconnect between the World Bank safeguard policies and the legal, institutional, and political realities of recipient countries.

Heavy burden on recipient-country governments

Traditional safeguard policies entail detailed requirements, which fall to recipient governments to implement. These requirements add to the workload of government employees, who must simultaneously implement their own national laws and policies. The additional workload can overburden government agencies, which may already struggle to meet their responsibilities. Governments often hire consultants to create the required documents, including impact assessments and management plans. Once these documents are completed, however, the consultants move on, leaving their implementation to the relevant agencies. The result is often lack of ownership and ineffective implementation.

Potentially ineffective incentive structure

Host government staffs often have limited incentive to thoroughly implement Bank policies. Although some governments appreciate Bank guidance in implementing projects with challenging social and environmental dimensions, others are less willing to invest in systems imposed by an outside institution. Some detailed safeguard requirements simply duplicate country processes. Government employees are familiar with their own structures and incentives systems and do not receive bonuses from the World Bank if they succeed with safeguard implementation; their salaries and positions are determined by the government.

Limited attention to monitoring and evaluation

Most of the World Bank's activity in traditional safeguard policies comes in the early stages of a project, when the Bank may require changes to impact assessments and management plans. Once money is disbursed and projects underway, Bank engagement is reduced. Social and environmental safeguard specialists and monitoring specialists employed by the World Bank may work on many

BOX 8 | THE ROLE OF CIVIL SOCIETY— VIETNAM'S TRUNG SON DAM

The public can play an important role in pressing for national ownership of and accountability for investments. In Vietnam, the World Bank team responsible for overseeing implementation of the Trung Son dam solicited input from civil society early in the planning process. The team encouraged transparency by releasing documents such as a matrix of comments from civil society and responses by the Bank. It also created a grievance mechanism for project-affected people. According to the World Bank:

The approach followed during the consultations differed from previous consultations in Vietnam. EVN [Vietnam Electricity] and the World Bank adopted an approach that focused on listening to affected people, asking them to share their concerns, and eventually designing a better project that addresses these concerns and responds to their needs. Consultation was based on an acknowledgment that people affected by the project would have useful ideas about what would be likely to work and what would not work during project implementation.^a

The Trung Son project has not been problem free; NGOs and affected communities still express concern about the effects of the project on the community and the Bank's refusal to disclose certain documents.^b Nevertheless, the Bank's proactive engagement seems to have improved project implementation and communication between civil society and the government regarding the project.^c

Notes:

- a. Defne Gencer & Richard Spencer, *New Approaches for Medium-Scale Hydropower Development in Vietnam: Lessons from Preparation of the Trung Son Hydropower Project* (Washington, DC: World Bank Group, 2012) 17.
- b. See, for instance, Khanh Nguy Thi, "Experience Sharing from the Case of Trung Son Hydropower Dam Project Funded by World Bank in Vietnam" (presentation, Annual Meeting of World Bank and IMF, Tokyo, Oct. 12, 2012).
- c. Personal communication with two national Vietnamese NGOs, Oct. 12 and Oct. 18, 2012.

The World Bank's main leverage is its ability to withdraw funding if governments do not adhere to contractual safeguard commitments, but this step is taken only in exceptionally egregious cases.

investments at once and visit project sites infrequently. Sometimes funding is unavailable to bring in environmental or social specialists, leaving nonspecialists to conduct the monitoring.

The World Bank's main leverage is its ability to withdraw funding if governments do not adhere to contractual safeguard commitments, but this step is taken only in exceptionally egregious cases.³³ The focus on preparatory documents may cause Bank staff to concentrate on ensuring that Bank procedures have been followed, rather than on whether the systems are strong enough to ensure long-term social and environmental sustainability.

Too few people on the ground

The focus on safeguard paperwork is reflected in the fact that the Bank tends to have few people on the ground to monitor and support implementation. Interviewees from inside and outside the World Bank expressed concern that the Bank does not invest enough resources to ensure that its staff can adequately collaborate with the local governments and citizens to monitor the effects of its investment. For more on the importance of investing in implementation and relationships on the ground see Box 9, on challenges the World Bank has encountered in Cambodia.



BOX 9 | SAFEGUARD CHALLENGES IN CAMBODIA

In 2009, the World Bank suspended funding to Cambodia when it could not agree with the government about how to proceed on its Land Management and Administration Project (LMAP). LMAP had supported land titling for thousands of primarily rural families. However, the World Bank's Inspection Panel found that the Bank had avoided titling land that was in dispute, and as a result unintentionally weakened the tenure security of people on that disputed land. This had, in turn, indirectly contributed to the involuntary resettlement of thousands of people, including people in the Boueng Kak Lake area of Phnom Penh.

The preparatory documents for the project stated that it would “not title lands in areas where disputes are likely until agreements are reached on the status of the land.”^a According to the Inspection Panel, however, interpretation of this sentence “seems to have changed over

the course of Project implementation. The current interpretation is that the Project will not title lands in areas where disputes are likely.”^b Several factors apparently contributed to this change, including pushback from the government and weak monitoring on behalf of the Bank, made worse by turnover in Bank staff. The Cambodian government decided to cancel the project rather than comply with World Bank requirements. The World Bank, in turn, suspended funding for any new investments in Cambodia.

Citizen Engagement

The World Bank did not engage citizens in the LMAP project as it did with the Trung Son dam (Box 8). Original planning documents specified that NGOs would be engaged to inform citizens about the activities, and to provide legal assistance to “disadvantaged individuals and communities involved in land

disputes.”^c This did not occur, however, which according to an “enhanced review report” conducted by the Bank, “made the process less participatory and transparent for the most vulnerable communities seeking land titling in an area to be adjudicated in urban areas.”^d Co-operating with NGOs may have allowed the Bank to either correct the project or withdraw at an earlier stage. According to the Inspection Panel's investigation:

It seems evident from a review of the supervision reports that the events that unfolded in the [Boueng Kak Lake] area since 2007 were not viewed by the Bank as serious and directly linked to the Project until much later, in late 2008 and early 2009, when local NGOs started raising their concerns with Bank staff and evictions of other communities in Phnom Penh were happening.”^e

Notes:

- a. World Bank Inspection Panel, Cambodia: Land Management and Administration Project (Credit No. 3650 - KH), Nov. 23, 2010, xix.
- b. *Id.*
- c. Instruction of the Cambodia Ministry of Land Management, Urban Planning and Construction (Phnom Penh, Cambodia), December 20, 2006 (LMAP Enhanced Review Report, July 2009) para. 19.
- d. World Bank, Cambodia Land Management and Administration Project Enhanced Review Report (Washington, DC: World Bank Group, July 13, 2009) para. 19.
- e. World Bank Inspection Panel, Cambodia: Land Management and Administration Project (Credit No. 3650 - KH), Nov. 23, 2010, xxiv.





Section IV

THE USE OF COUNTRY SYSTEMS APPROACH

The World Bank's "use of country systems" approach to safeguards was developed to allow for greater use of recipient country laws and institutions. The results have been mixed.

BOX 10 | STRENGTHENING COUNTRY SAFEGUARD SYSTEMS AT THE ASIAN DEVELOPMENT BANK

When the Asian Development Bank (ADB) updated its safeguard policy in 2009, it called for creation of a US\$80–100 million trust fund that would:

1. Support recipient countries in strengthening their safeguard policies, legal frameworks, regulations, rules, and procedures;
2. Support capacity development of recipient government agencies, borrowers/clients and civil societies at national, subnational, sector, agency and project levels; and
3. Work with recipient countries to conduct country safeguard system equivalence and acceptability assessments, and diagnostics on a demand-driven basis.^a

ADB resources for strengthening country safeguard systems have been in strong demand from developing member countries. So far, the ADB has provided more than US\$20 million to about 35 projects. Examples of projects include:

1. Myanmar: Capacity Building for Implementing Environment and Social Safeguards;
2. Mongolia: Reform of Legal and Regulatory Framework for Involuntary Resettlement (Phases I and II);
3. Papua New Guinea: Country Safeguard Review; and
4. Pakistan: Environmental Training for Civil Servants.^b

In 2012, the ADB held a regional workshop on country safeguard systems that brought together representatives of financial institutions and governments, and other stakeholders.^c

Notes:

- a. Asian Development Bank, Safeguard Policy Statement, para. 77 (2009).
- b. These projects are all sub-projects of the broader technical assistance project entitled “Strengthening and Use of Country Safeguard Systems.” Asian Development Bank, TA 7566: Strengthening and Use of Country Safeguard Systems, Project Data Sheet, May 20, 2010; Asian Development Bank, “Country Safeguard Systems,” <http://www.adb.org/site/safeguards/country-safeguard-systems> (last accessed March 14, 2014).
- c. The workshop was entitled “Country Safeguard Systems Regional Workshop Proceedings: Towards Common Approaches and Better Results.” The proceedings from the workshop are available online at: <http://www.adb.org/sites/default/files/pub/2012/country-safeguard-systems-workshop.pdf>.

Overview of Use of Country Systems Approach

In 2005, the World Bank launched a pilot program to explore using recipient country rules and institutions to reduce social and environmental impacts.³⁴ The pilot aimed to increase effectiveness of safeguard implementation, build capacity of the recipient country, and reduce transaction costs.³⁵ The pilot project was reviewed and scaled up in 2008.³⁶ The World Bank defined country systems as “a country’s legal and institutional framework, consisting of its national, subnational, or sectoral implementing institutions and applicable laws, regulations, rules, and procedures.”³⁷

Regional Banks have followed suit. ADB and the Inter-American Development Bank (IDB) have each included provisions for using country safeguard systems in their safeguard policies.³⁸ Although both have researched how to assess the suitability of country systems to deal with bank investments, neither has yet relied on country systems.³⁹ They have put more emphasis on first strengthening those systems (see Box 10). The African Development Bank (AfDB) has integrated use of country systems into its new safeguard system, which it hopes will “contribute to strengthening regional member country systems for environmental and social risk management.”⁴⁰

Country Systems in the Use of Country Systems Approach

Anticipate

Under the World Bank’s use of country systems (UCS) approach, recipient country systems can be used if the Bank deems them “equivalent” to its own systems. Equivalence is determined by whether the government’s system is designed to achieve certain objectives and operational principles distilled from the Bank’s social and environmental safeguard policies.⁴¹ These principles are set out in World Bank O.P. 4.00, which governs its UCS pilot projects. The policy includes 9 objectives and 64 operational principles. Examples of operational principles are:

- Resettlement operational principle No. 7: For those without formal legal rights to lands or claims to such land that could be recognized under the laws of the country, provide resettlement assistance in lieu of compensation for land to help improve or at least restore their livelihoods.
- Natural habitats operational principle No. 2: Avoid significant conversion or degradation of critical natural habitats, including those habitats that are (a) legally protected, (b) officially proposed for protection, (c) identified by authoritative sources for their high conservation value, or (d) recognized as protected by traditional local communities.
- Forests operational principle No. 10: Disclose any time-bound action plans in a timely manner, before appraisal formally begins, in an accessible place and in a form and language that are understandable to key stakeholders.⁴²

In addition to equivalence, the Bank assesses the “acceptability of the government’s implementation practices, track record, and capacity.”⁴³ No rules have been established for how to assess the acceptability of safeguard systems within a country. Methods used have included desktop reviews of prior assessments, interviews, and site visits (see Box 11). Equivalence and acceptability assessments are known as “safeguard diagnostic reviews.” So far, the World Bank has conducted and paid for these assessments.

Once the Bank has assessed the recipient country’s system, the government is responsible for conducting any needed impact assessments. If the Bank deems the country’s impact assessment system equivalent to the Bank’s, the government will use its own system. If the country’s system is not deemed equivalent, and if gap-filling measures cannot make it equivalent, the Bank’s impact assessment policy (O.P. 4.01) applies. For purposes of transparency and public participation, the World Bank must disclose its equivalence and acceptability assessments to the public before they are finalized. Instead of setting specific consultation requirements, the UCS policy states that government must “involve stakeholders, including project-affected groups and

BOX 11 | SAFEGUARD DIAGNOSTIC REVIEW FOR THE REPUBLIC OF MAURITIUS

In reviewing Mauritius’ safeguard system, the World Bank’s diagnostic team looked at the results of the seven research activities described below.

1. An analysis of Mauritius’ laws, regulations, and environmental codes of practice for environmental safeguard policies related to environmental assessment, natural habitats, forests, physical cultural resources, pest management, and safety of dams as defined by operational policy 4.00;
2. Interviews with government of Mauritius officials, the private sector, and members of civil society who are responsible for or otherwise involved in the implementation of Mauritius’ legal and administrative framework relating to the environment;
3. Consultation with other key donors engaged in projects to support the development of Mauritius’ legal system and its institutional capacity;
4. Review of environmental assessments underway for several projects financed independently of the World Bank or other donors that apply environmental safeguard conditions;
5. Site visits to projects under construction that are not supported by the Bank or other donors;
6. Stakeholder workshop to review and discuss findings and recommendations of the Bank-prepared draft safeguards diagnostic review; and
7. Review of the draft and final versions of the comprehensive study commissioned by the Ministry of Environment and the proposed Environmentally Sensitive Areas Conservation and Management Act.^a

Note: a. World Bank, *Safeguard Diagnostic Review for the Republic of Mauritius* (Washington, DC: World Bank Group, 2012) viii.

local nongovernmental organizations, as early as possible, in the preparation process and ensure that their views and concerns are made known to decision makers and taken into account.”⁴⁴

Plan

Under the UCS approach, once equivalence and acceptability assessments are complete, the Bank and the government determine the appropriate next steps, which may include gap-filling measures to

bring the country system in line with Bank standards.⁴⁵ In the second phase of the Bank's 2008 UCS pilot program, governments could receive up to US\$50,000 to defray the cost of achieving equivalence and acceptability. If the Bank and country systems are too far apart, the Bank's policies will be used for the management plans. As with the traditional safeguards approach, the Bank must review and sign off on the plans.

The World Bank and the government generally plan together on how to fill gaps in the country system. Examples of gap-filling measures include:

- Revising general EIA guidelines to provide for assessment of direct, indirect, cumulative, and associated impacts and to require sectoral and regional environmental assessments where appropriate (Mauritius).⁴⁶
- Disseminating EIAs among stakeholders for their opinions and comments, and then posting the comments on government websites (Tunisia).⁴⁷
- Reviewing adequacy of resources (staff, equipment, and budget) allocated to environmental assessments in the energy sector and optimizing them as appropriate (Ghana).⁴⁸

A government could use its own systems for some safeguards but not for others. For instance, most safeguard diagnostic reviews have found that country systems are an adequate alternative to the

Bank's standards on environmental assessments, but not for its standards on involuntary resettlement.⁴⁹ A review of the first pilot phase of the UCS approach found that for involuntary resettlement "the gaps between the requirements of Bank policy...and corresponding borrower systems may be too substantial in most cases to be filled by measures that are feasible to implement at the project level."⁵⁰ The main difference between Bank and country systems for dealing with resettled people centers on the treatment of people who live on or use land without legal ownership. Many developing country governments resist compensating people they view as "squatters." The Bank requires compensation even for these people.

Manage

Once the World Bank and recipient government have agreed on the systems that will be used to reduce negative social and environmental impacts, the government is responsible for managing their implementation, as with the traditional safeguards approach.

Monitor

According to World Bank policies, projects using the UCS approach are subject to the same monitoring requirements as those using traditional safeguard policies. Projects following the UCS approach involve the same degree of documentation and interaction between the Bank and the government





as projects following the traditional safeguards approach.⁵¹ However, under the UCS approach the Bank's monitoring focuses on whether the country is implementing its laws in a manner consistent with the broad operational principles outlined in the UCS policy.

Respond

As with traditional safeguards, the government is the first-line responder for problems that arise under the UCS approach. If the country's systems are deemed equivalent and acceptable, they may be used to respond to challenges. In practice, this may not differ significantly from the traditional safeguards approach under which governments also usually rely on their own response mechanisms.

The World Bank is also responsible for responding to problems.⁵² Its Inspection Panel is authorized to investigate both the assessment process and project implementation.⁵³ So far the panel has looked at one project governed by the UCS approach: a loan to Eskom, a South African public utilities company to support energy production in South Africa, including building a coal-fired power plant. The Inspection Panel found, among other things, that the World Bank had not adequately assessed the acceptability of South Africa's environmental compliance system or the range of project impacts.⁵⁴

Strengths and Weaknesses of Use of Country Systems Approach

Strengths

Focus on strengthening country systems

The safeguard diagnostic reviews present an opportunity to systematically outline the merits of recipient country systems, as well as to identify areas needing improvement. This process has improved understanding of the strengths and weaknesses of domestic processes in protecting people and the environment from harm associated with large-scale investments. The focus on implementation has been particularly useful. The reviews have generally found, for instance, that laws for environmental protection are typically relatively strong, but track records for implementation and monitoring are often weak.⁵⁵ At the same time, the reviews have clarified discrepancies between recipient country and Bank policies regarding social safeguards, including systems for ensuring transparency and public participation.

Investments in gap-filling measures have brought needed funding to recipient country systems, which could continue to provide benefits beyond the projects funded by the Bank. Meanwhile, a Bank decision that a country's systems are equivalent to those of the World Bank provides positive recognition to governments that have emphasized environmental

or social protections. Some staff members of financial institutions reported that governments have become more interested in developing their country's safeguard systems now that the opportunity is emerging to use those systems for projects funded by international financial institutions.⁵⁶ The UCS pilot appears to have been particularly valuable for governments that plan to implement several similar projects, since the safeguard diagnostic review and gap-filling measures can be transferred to future projects. Croatia, Bhutan, and Mauritius have opted to have safeguard diagnostic reviews conducted at a national level (rather than at the project level) so they can then be applied to multiple projects.

Balance of flexibility and accountability

The World Bank's UCS policy provides both flexibility and adequate guidance. By eliminating some of the policy requirements in traditional safeguards, the UCS approach has helped focus efforts on the most important social and environmental protections, while allowing country systems to dictate precisely how these protections are achieved. The policy has also maintained the Bank's accountability for ensuring that its own standards are upheld. For example, because almost none of the country systems for involuntary resettlement come close enough to the Bank's standards to justify gap-filling measures, countries used the Bank's systems to address this issue.

Weaknesses

Despite its benefits, the UCS approach is not without challenges, as evidenced by the small number of governments that have opted into this approach. By June 2010, the World Bank had implemented 24 pilot projects in 15 countries, but few safeguard diagnostic reviews have been initiated since then.

Narrow focus

Several explanations are possible for this low uptake. One is the narrow project focus of many UCS pilots. Reviewing the national system to look specifically at the rules and institutions relevant to the pilot project limited the usefulness of the diagnostic reviews for other projects. It also missed an opportunity to work with the government and other investors to help create a coherent path toward an effective country safeguard system. Exceptions were

Croatia, Bhutan, and Mauritius, which opted for national safeguard diagnostic reviews that could be used for multiple projects.

Higher costs

The cost associated with implementing the UCS approach has been another hurdle. The detailed equivalence and acceptability assessments, with site visits and interviews, average about \$104,000 for each project. Since the World Bank is responsible for paying this cost, Bank staff members have sometimes struggled to secure funding within the institution.⁵⁷ Governments, in turn, have sometimes been reluctant to pay for the costs associated with bringing their country systems in line with Bank standards, including the costs of training government staff or holding additional public consultations. Some originally thought of the UCS approach as a cost-cutting measure because they assumed that countries could reuse a finding of equivalence for other projects. Doing so is not always easy, however, given the significant differences among the types of projects in which the Bank invests. The project-level focus meant that it was sometimes difficult to reuse the safeguard diagnostic reviews for other investments.

Flexibility is still limited

Another concern voiced by recipient governments is that the UCS approach is too rigid. Some experienced the approach as essentially the same, in practice, as the traditional safeguard approach. According to one assessment "while O.P. 4.00 was intended to simplify safeguards, in most cases it essentially added a layer to what is done already while creating more points of potential exposure for non-compliance."⁵⁸ A few of the operational principles appear to have exacerbated this feeling by, in essence, requiring use of the Bank's systems regardless of the strength of the country's system. For instance, UCS operational principle 5 for environmental assessments states that government should apply the World Bank Group's Pollution Prevention and Abatement Handbook unless it can justify not using it. Some country representatives also appear to have resisted the term "equivalent," which they feel implies that the country systems need to be identical to the Bank's.





Section V

THE PROGRAM FOR RESULTS APPROACH TO SAFEGUARDS

The World Bank's Program for Results is an attempt to link funding more directly to development results. It brings new implications for structuring safeguards.

Results-based finance delivers funding after predetermined results are accomplished rather than providing all funds up front.



Overview of the Program for Results Approach

The concept of results-based finance is to deliver funding after predetermined results are accomplished, rather than providing all funds up front. Thus a country would get most of its funding from the World Bank for a new government program only after the program starts showing successful results. Under the Bank's Program for Results (PforR), the government can receive up to 25 percent of the loan in advance to support implementation costs.⁵⁹ Normally the World Bank would finance an operation prior to implementation. Results-based finance methodologies are becoming more popular in international development finance, as financial institutions try to ensure that their investments result in the intended change. In the context of REDD+, for example, donor countries are beginning to allot funding based on verified emission reductions from reduced deforestation and forest degradation.⁶⁰

In 2005, the IDB was the first development bank to introduce a lending instrument that disbursed funds after a program reached a desired development outcome.⁶¹ The first performance driven loan (PDL) was approved by the IDB board of directors in December 2005. About 15 more were approved during a six-year pilot program, which ended in 2009 and was not renewed. The ADB approved a policy on results-based lending in early 2013 and has started to initiate pilot programs.⁶²

The World Bank introduced its PforR in early 2012, as a two-year pilot. PforR provides loans for government programs, which are disbursed after achievement of predetermined results. The pilot limits PforR investments to 5 percent of the Bank's total financial commitments, and excludes Category A projects, that is, projects that are likely to result in significant negative impacts. The Bank had approved 8 projects by November 2013, and another 16 were under preparation. Whereas IDB applied its regular safeguard policies to its results-based lending, the World Bank created a new safeguard methodology for PforR (under O.P. 9.00).

Country Systems in the Program for Results Approach

Anticipate

Through PforR, the World Bank invests in government programs, which consist of many subprojects like road improvements or school programs. The Bank's primary responsibility is to assess the overall program to determine if it includes an adequate system for managing any potential negative environmental and social impacts. To do so, the World Bank conducts an environmental and social systems assessment (ESSA).

Like safeguard diagnostic reviews, ESSAs look not only at the presence of social and environmental risks, but also at the ability of recipient country systems to avoid or mitigate those risks. Rather than looking for equivalence to World Bank safe-



guards, these assessments are based on a list of 6 “core principles” and 13 “key planning elements” spelled out in O.P. and Bank policy (B.P.) 9.00 respectively.⁶³ These principles are similar to those found in the UCS approach, but include fewer requirements. The assessments consider “whether the Program institutions have the capacity to carry out adequate planning, decision making, execution, reporting, monitoring and evaluation, auditing and information disclosure under the Program.”⁶⁴ Like safeguard diagnostic reviews, ESSAs are created and paid for by the World Bank. They are subject to public consultation before becoming final, which is also the responsibility of the Bank rather than the client.

Identifying and managing subproject impacts are the responsibility of the recipient. In Uganda, for instance, a PforR loan is financing a program to support municipal infrastructure projects in secondary cities.⁶⁵ In Tanzania, a PforR credit is supporting the strengthening of urban local governance,⁶⁶ while in Vietnam, a PforR loan is going toward a government program to provide rural water supply and sanitation.⁶⁷ ESSAs are structured to assess the ability of the governments to oversee the program. The government is then responsible for conducting its own assessments of the subprojects, following the laws of the country and any additional gap-filling measures agreed to under PforR.

Plan

After conducting the ESSA and other assessments, the Bank and the government formulate a “program action plan.” The action plan spells out, among

other things, the steps the government will take to fill any gaps identified in the ESSA. The action plans are published by the Bank as part of the program appraisal document and can spell out both the legal covenants and the indicators that will be used to verify results (called development-linked indicators or DLIs).

Covenants and indicators play different roles. Covenants are contractual requirements that governments agree to meet. Money is not released unless all covenants are met. The program action plan of the Tanzanian Urban Local Government Strengthening Program, for instance, requires that the government create a technical manual for environmental and social management, which must be finished before the project moves into the implementation stage.⁶⁸ Indicators, on the other hand, are linked to a percentage of loan payments. If a specific indicator is not met, the loan would be reduced by the correlating percentage. Indicators may be expressed as “outcomes, outputs, intermediate outcomes or outputs, process indicators, or financing indicators” and “could include actions for improving...social and environmental issues.”⁶⁹

To date, PforR initiatives have not linked indicators directly to environmental and social protections. A number of the programs have tied indicators to general improvements in governance though, which would have positive social and environmental effects. In Tanzania, for example, all indicators focus on improving relevant institutions and their capacity to deliver results, with the goal of ensuring, among other things, that “environmental and



social management conditions are in place such that the [local government] can absorb the increased funding.”⁷⁰ Indicator 3.2 of the rural water supply and sanitation PforR in Vietnam requires each of the eight participating provinces to disclose program reports to the public, which could enhance transparency around social and environmental concerns.⁷¹

Manage

The borrowing country is primarily responsible for implementing the program and relevant safeguard policies. These responsibilities include paying for implementation, although some funding may be

available from third parties, as with traditional safeguards. In Vietnam, for instance, the Australian Agency for International Development (AusAID) is funding a technical assistance program that will run in parallel with, and support, the PforR program.⁷²

Monitor

As with the other safeguard methodologies, the government provides the first line of monitoring of safeguard implementation in PforR initiatives. Since PforR programs generally consist of a number of smaller projects, several branches of the recipient government are usually involved in monitoring either individual subprojects or the program as a whole. In Tanzania, the Prime Minister’s Office for Regional Administration and Local Government oversees implementation of the program, while urban local government authorities monitor implementation at the subproject level. Several programs approved to date have focused on supporting governments in creating or strengthening monitoring and evaluation systems to allow for improved accounting of results. Some of these efforts have been captured in loan covenants or indicators.

The Bank monitors PforR programs primarily through annual, midterm, and final reviews. In Vietnam, for instance, the Bank and government agreed to annual management meetings to assess program progress. Although independent assessments of results are not required by the policy, the Bank and governments usually agree to provide such verification. In Vietnam, the State Audit Office holds this responsibility; in Tanzania, a private company will be hired to conduct an assessment.⁷³

When the IDB implemented its pilot for performance-driven loans, it required recipient countries to verify the direct link between program expenditure and the intended results. The World Bank’s PforR does not require close matching of expenditures to results, reducing the burden on government monitoring teams.

Respond

PforR is structured to provide the Bank and governments a new way to respond to challenges of implementing programs and projects. It is the only type of financing the Bank can withhold if prede-

terminated results are not met. Theoretically at least, this is true for social and environmental safeguards as well, although the degree to which financing can be reduced because of social and environmental concerns depends on the degree to which these concerns are embedded in covenants or indicators.

As the program implementer, the recipient government is primarily responsible for responding to problems. To date, several governments have built results-based management into their own systems for implementing PforR programs. According to the PforR plan in Tanzania, for instance, the central government will reward local governments based, among other things, on their ability to show that they have met certain environmental and social criteria. Indicators on which the local governments will be evaluated include:

- Systematic records maintained on all environmental and social management activities implemented by local governments;
- Robust system established for handling social, environmental, and resettlement grievances;
- All participatory consultative processes on local government activities address the relevant environmental and social considerations;
- Resettlement action plans implemented and environmental management plans prepared prior to initiating civil works.⁷⁴

The Inspection Panel continues to have jurisdiction over PforR projects. However, given the novelty of PforR, the panel has not yet received any complaints regarding PforR investments.

Strengths and Weaknesses of the Program for Results Approach

Use of results-based approaches to lending by the Bank and other institutions is still in its infancy. Accordingly, it is difficult to evaluate the benefits

and drawbacks of this approach in relation to social and environmental protections. However, some early lessons are evident.

Strengths

Greater flexibility allows easier implementation

Compared with the traditional and UCS safeguard approaches, PforR's slimmed-down environmental and social principles provide greater flexibility for using a country's rules and institutions as safeguards. If used appropriately in the right context, this flexibility can help ensure that social and environmental protections are implemented in a manner that fits into the governance structure of the recipient country. Thus it can allow government staff to follow policies and procedures with which they are familiar, and provide an increased sense of ownership to recipient governments and stakeholders. Several members of the Vietnamese team developing the PforR initiative, for instance, noted that implementing the safeguard policies felt easier than implementing traditional safeguards because they were already familiar with how the country system functioned.

Attention to country systems

Another benefit of the PforR approach is the relatively high level of attention given to country safeguard systems. Like the safeguard diagnostic reviews, ESSAs are meant to look more carefully at the government's environmental and social systems than assessments associated with traditional safeguard policies. The process of creating documents like the ESSA and the accompanying program action plan can encourage both Bank and government staff to become more knowledgeable of the unique opportunities and challenges associated with the country's systems.

Accountability for results

Finally, the ability to withhold funding until results are met can potentially provide both the Bank and governments more leverage for ensuring that social and environmental protections are implemented. Several World Bank staff members interviewed



expressed the view that PforR projects have resulted in more active and higher level discussions between the Bank and government representatives about how to implement social and environmental protections. An environmental expert in the Ugandan government expressed cautious hope that the results-based structure would elevate environmental and social concerns to a more prominent position in project development, and that it would provide the central government with a stronger leverage to ensure compliance with social and environmental rules.

Weaknesses

Lack of clear standards

Although the slimmed-down nature of the safeguard approach chosen by the World Bank for PforR brings increased flexibility, it also increases the risk that the Bank and governments will not be held accountable for negative social and environmental effects resulting from investments. Most PforR safeguard principles are vague, leaving room for interpretation and confusion. The lack of detail may also present a hurdle for the Inspection Panel when it tries to determine compliance with the policy.

Safeguards not required to be tied to results

Another potential weakness of the PforR approach is the lack of emphasis on social and environmental results. Results-based funding is PforR's primary accountability mechanism, and social and environmental protections are generally not featured strongly. Indeed none of the programs to date have included a DLI specifically focused on results related to environmental or social protections, although some DLIs have included environmental and social concerns as a subcomponent.⁷⁵ Some of the PforR projects have opted to establish social and environmental protections as covenants, which makes them mandatory because a government cannot choose to forgo implementing a covenant. Covenants, though, are generally focused on procedures, such as the creation of assessments and monitoring reports. Thus there is the risk that, as with traditional safeguards, administrators may focus on producing documents rather than on implementation. It also threatens to disconnect social and environmental safeguards from the accountability that comes with providing finance based on results.





Section VI

THE DEVELOPMENT POLICY OPERATION APPROACH TO SAFEGUARDS

Development policy operations focus on changes in laws and institutions. This creates new challenges and opportunities for efforts to reduce environmental and social risks.

Overview of the Development Policy Operation Approach

Whereas many loans tend to focus on specific projects or programs, such as a new road or healthcare system, policy loans provide direct budget support tied to changes in a country's policies and institutions. Policy-based lending evolved from "structural adjustment" lending, which was originally introduced to help countries deal with short-term balance of payments support. Today, the World Bank provides policy support through development policy operations (DPOs) under O.P. 8.60, introduced in 2004. DPOs differ from the three safeguard approaches discussed thus far because of the type of investments they fund.

The World Bank is not alone in providing budgetary support connected to policy changes in developing countries. The IDB provides "policy-based loans" and the ADB provides this type of loan through its "program lending." Unlike the World Bank, ADB and IDB do not use separate safeguard policies for policy loans, although some differences exist in implementation compared with project loans.

Country Systems in the Development Policy Operation Approach

Anticipate

To anticipate the environmental and social impacts of DPOs, the World Bank is required to determine "whether specific country policies supported by the operation are likely to cause significant effects on the country's environment, forests, and other natural resources" or have "poverty and social consequences, especially on poor people and vulnerable groups."⁷⁶ To adhere to this requirement, the Bank generally conducts due diligence assessment of the proposed policy changes to obtain a basic understanding of any potential social and environmental impacts. If the initial assessment indicates a "likely" risk of "significant" harm, the World Bank's policy calls for further analysis of the ability of existing systems to adequately reduce that risk.

Unlike the other approaches, the DPOs are not accompanied by social and environmental principles or other indicators to guide these assessments, nor does the Bank need to reveal full due diligence assessments to the public. The project document need only provide an overview of the World Bank's understanding of the potential impacts at hand, and how the government would mitigate those impacts.

The Bank does provide relatively thorough voluntary guidance, particularly in relation to poverty and social impact assessments (PSIAs)⁷⁷ and strategic environmental assessments (SEAs),⁷⁸ both of which are meant to provide further understanding of the potential effects of the policy changes. Whether these assessments are conducted depends on the circumstances, including the project type and availability of resources. Support for financial sector reform is generally thought to have no meaningful negative social and environmental impacts, thus further assessments are not conducted. DPOs directed at, for instance, the health or environmental sectors are more often subject to some form of additional social and/or environmental assessment. It is rare for the Bank to conduct a full SEA for a DPO.

Plan

If a DPO is found to entail sufficient potential impacts, and if existing country systems are not deemed strong enough to adequately reduce them, the Bank requires the program document to outline how "gaps or shortcomings would be addressed before or during program implementation, as appropriate."⁷⁹ Theoretically, various options are available, including adding policy changes related to environmental and social protections, forgoing the particular investments or requirements, or providing technical assistance to tackle the relevant problem (see Box 12 for an example of the latter from Tanzania).

Manage

The recipient country government is generally responsible for managing any social and environmental risks associated with a DPO. Government employees are responsible for ensuring that any relevant policy changes are implemented, and that rules and institutions are in place to reduce risks associated with these changes. The government

BOX 12 | ENERGY SECTOR CAPACITY BUILDING IN TANZANIA

One option for responding to potential negative impacts from a development policy operation (DPO) was seen recently in Tanzania. In 2013, a project document on expansion of the power and gas sector in Tanzania noted the discovery of potentially large offshore natural gas deposits, development of which posed a high level of environmental risk to protected reefs and mangroves. It stated that the project

represents an important environmental management challenge for Tanzania. Initial results suggest that natural gas deposits may be found in offshore marine and coastal waters, including areas in and around some of Tanzania's marine protected areas (e.g. Mnazi Bay, Mafia Island Marine Park). These areas include some of Tanzania's most important and

productive reefs and mangroves, which support the livelihoods and serve as a significant source of animal protein to coastal communities, support high levels of biodiversity, and are an important draw for tourism.^a

The Bank found that the government was not equipped to handle this risk and that it would “require significant expertise and strong systems to ensure adequate response to spills and leaks, and to compensate for the sector’s long-term environmental impacts.”^b

To help support the Tanzanian government’s ability to manage the environmental risks associated with the DPO, the Bank included capacity-building activities in a separate project to enhance Tanzania’s ability to capitalize

on its natural gas resources. The project, the Energy Sector Capacity Building Project, co-financed with the Canadian International Development Agency, provided a loan of \$35 million, \$2.10 million of which was for social and environmental management. The project would provide training and equipment to Tanzania’s National Environment Management Council, and support the development and dissemination of oil spill early warning and response systems. The financing will also be used to hire a consultant to conduct a strategic environmental and social impact assessment for the Tanzanian oil and gas sector. The grant is unlikely to fill all the gaps in Tanzania’s governance structure, but it is a step in that direction.

Notes:

a. World Bank, *International Development Association Program Document in a Proposed Credit in the Amount SDR 64.9 Million (US\$ 100 Million Equivalent) to the United Republic of Tanzania for a First Power and Gas Sector Development Policy Operation*, Report No. 74994-TZ (Washington, DC: World Bank Group, 2013) 41.

b. *Id.*

typically relies on existing institutions, such as environmental protection agencies, law enforcement agencies, or agencies dealing with land-use planning. Sometimes a new structure is created to coordinate or oversee the activities. For example, in Indonesia, a steering committee and a technical committee were created to guide implementation of a climate change DPO.⁸⁰

Monitor

Both the Bank and the government monitor whether the agreed policy changes have been implemented. Monitoring is typically based on indicators developed prior to implementation. If environmental and social factors were embedded as conditions for releasing funds, they will be monitored by the Bank. However, negative environmental and social impacts not rooted in policy

reforms are typically not directly monitored by the Bank, including those that were originally identified but deemed adequately controlled by the country’s systems. If such impacts are monitored it is usually by the government or other interested parties, such as civil society organizations. The Bank does not typically monitor how funding is used once disbursed; funding goes into the country’s general budget. The Bank reviews DPOs every three years, with analysis based on information gathered in relation to disbursement of the investment rather than the results.⁸¹

Respond

The government is responsible for responding to challenges that arise in meeting the requirements of a DPO, including any policy changes needed for social or environmental protection. The Bank may

engage with the government to reach agreement on potential solutions. If a solution cannot be found, the Bank can withhold funding (or the government can refuse to accept it). If successful implementation of the required policy changes brings negative social or environmental consequences after the loan has closed, the Bank generally does not act since such action is not part of the contractual agreement with the government. The Inspection Panel has jurisdiction over DPO lending. It can, for instance, investigate whether the Bank adequately assessed and planned for risks presented by the investment.

Strengths and Weaknesses of Development Policy Operation Approach

Strengths

Full use of country safeguard systems

Of the safeguard approaches outlined in this report, the World Bank's DPOs rely most heavily on country systems to reduce environmental and social risks. As a result, the social and environmental protections for such loans are generally fully embedded in the country's processes and structures. In the right context, this approach could have several advantages, including seamless integration into existing safeguard systems.

Option to invest in country safeguard system

Policy loans can be a valuable tool for supporting important systemic changes to governance in developing countries, including governance of environmental and social concerns. Unlike project-based loans, policy loans can help a country tackle systemic problems that lead to poor environmental or social outcomes. If implemented properly, they can help countries restructure policies or sectors to support stronger safeguard systems.

Weaknesses

Lack of method to ensure accountability

The primary weakness of DPOs in relation to social and environmental protections is the lack of a system to ensure that the Bank and government are held to account for social and environmental harm resulting from the investment. Policy loans rely heavily on recipient country rules and institutions without requiring the Bank to thoroughly understand and support these systems.

Little analysis of country safeguard systems

Although the World Bank's policy for DPOs asks for an assessment of potential social and environmental impacts, it does not make requirements for the form or content of the assessment. These assessments are typically not shared with the public. Assessing potential impacts associated with policy changes can be more difficult than assessing the impacts of projects, which usually have more direct impacts and a defined geographic scope. However, the added difficulty does not eliminate the need to understand the potential effects of the investment.

Lack of environmental and social standards

Unlike the three other safeguard approaches in this report, the World Bank's DPO policy does not list the types of negative impacts (like pollution or effects on indigenous peoples) to be considered. The policy leaves it to Bank staff to determine whether risks are significant enough to justify further action, or whether any social and environmental harm should be considered a violation of the policy.

Narrow definition of impacts

The rules governing DPOs require only the anticipation of "likely" and "significant" consequences. Although the Bank and government may not be expected to predict all potential consequences of changes in policy, focusing too narrowly on direct impacts can entail undue risk to people and ecosystems. Box 13 provides an example of an assessment associated with a DPO loan to the Democratic Republic of the Congo that the Inspection Panel found to have incorrectly determined to have no significant risks.

No link between impact assessments and changes to loan requirements

DPO documents often fail to link the findings of impact assessments to changes made to the investment requirements. Unlike the ADB, which requests a matrix of social and environmental impacts and needed mitigation measures, the World Bank does not require staff to spell out how findings link to mitigation plans. This can make it difficult for stakeholders to understand whether changes were made based on the assessment, and what the changes were. In terms of public participation, DPO loans supported by the Bank have often been predetermined by the government in poverty reduction strategy papers or similar documents. The Bank tends to trust that governments have engaged with stakeholders in the creation of these documents, and so does not require public consultations. Experience indicates though that thorough consultations have not always taken place.

Lack of continued engagement after rapid disbursement

Finally, the lack of minimum standards and the rapid disbursement of DPO loans limit the ability of the Bank to understand the long-term effects of the policy changes being funded. Only a small percentage of policy loans are brought to the Inspection Panel compared with project loans. The low figure may be because of the lack of harm resulting from these investments, or it may be because of the nature of policy lending. The impact of DPO loans on individual communities is more difficult to trace than that of tangible projects such as infrastructure developments. In addition, policy lending is meant to be disbursed quickly. Since the Inspection Panel loses jurisdiction once disbursement is complete, the window of time in which affected persons can bring complaints is often less than a month, which is much less time than for project loans.

BOX 13 | FORESTS IN THE DEMOCRATIC REPUBLIC OF THE CONGO

The lack of clear safeguards for development policy operations (DPOs) has resulted in a large percentage of loans relying solely on country systems to avoid social or environmental harm. The majority of initial assessments find that the loan presents no negative risks, or that the risks are mitigated by country systems. The 2012 World Bank review of DPOs found, for example, that between 2009 and 2012 only 0.3 percent of project documents indicated that the investment might have negative environmental impacts.^a

However, these findings are not always accurate, especially with forest investments. For example, with the World Bank's Transitional Support for Economic Recovery Grant to the Democratic Republic of Congo, the preparatory documents found the effects on the environment would be "felt only indirectly" and determined that no further steps to reduce risks were required. Yet indigenous communities and others in the region feared that the loan's emphasis on logging concessions would harm the ecosystems upon which they relied. The Bank's Inspection Panel agreed that the negative impacts were real. In investigating the grant, the panel observed: "The conclusion regarding the lack of environmental impact may be the result of Management's lack of sufficient analytical resources (such as CEAs [country environmental assessments] and SEAs [strategic environmental assessments]) to properly measure the impact of policy reforms on environment, forests and other natural resources."^b

The panel noted that "there appears to be a trend in the Bank that [DPO loans] are very frequently determined to have no significant environmental and social impacts... This trend is evident in the 27 DPLs which include forest sector reform, most of which have been in Africa. This is rather surprising because the forest sector has long been identified as one of the most likely sectors to cause environmental impact, and the need for careful analysis in such sectors appears to be well understood."^c

Notes:

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Section VII

RECOMMENDATIONS FOR INVESTORS

Experiences with the World Bank's four safeguard approaches provide lessons for other investors looking to implement safeguards effectively. One main lesson is that thorough safeguard implementation requires a high level of investor engagement.

The strengths and weaknesses of the World Bank's four safeguard approaches analyzed in this paper provide eight lessons for the Bank and other investors that want to encourage both country ownership and accountability for social and environmental protections.

1. Use recipient country laws and institutions to enhance safeguard implementation

World Bank, government, and citizen experiences with the four safeguard approaches outlined here confirm that building on country safeguard systems, if done correctly, can enhance safeguard effectiveness. As seen in the UCS and PforR approaches, focusing on the rules and institutions of the recipient country can help change the conversation from whether the country has complied with investor policies, to how country systems operate and how they can be strengthened.

Effective country systems can empower people in both government and civil society to hold government to account for its actions. Using country systems can also allow national actors to work within a familiar policy and institutional structure, which may enhance their ability and commitment to successfully complete safeguard tasks. Finally, focusing on the strengths and weaknesses of the existing systems in the recipient country can help ensure that all investments—regardless of the funding source—are dealt with fairly and subjected to the same requirements.

If a country's safeguard system is not yet strong enough to ensure adequate social and environmental protection, investors can invest directly in strengthening it. The ADB's program to strengthen country safeguard systems has been positively received by developing country governments (see Box 10).⁸²

2. Maintain strong safeguard policies to ensure social and environmental protection and provide a positive example for country systems

Relying solely on country systems is often not enough to allow investors to meet minimum safeguard standards. Although many developing countries have successfully strengthened their safeguard systems in recent decades, poverty, political instability, growing income stratification, corruption, and other problems continue to hinder effective governance. Where recipient country rules or institutions are not strong enough, investors can help fill the gaps, benefitting both the government and the investor.

Effective investor involvement in safeguard implementation requires thorough and clear policies, and adequate staffing to oversee full implementation. If investors rely on recipient-country systems to implement social and environmental protections, these systems should be able to perform all five functions: anticipate, plan, manage, monitor, and respond. If they cannot, the investor should help fill the gaps. Using an investor's policies has the benefit of providing government staff with experience in safeguard implementation, and sets an example for countries seeking to strengthen their safeguard requirements. Evidence of this is seen in the many government laws that now reflect the World Bank's standards for environmental impacts.

3. Thoroughly research the strengths and weaknesses of the host country's safeguard system on paper and in practice

An investor needs to thoroughly understand the strengths and weaknesses of the recipient country's safeguard system to determine how much to rely on that system. Two key questions in determining whether a country's safeguard system is appropriate in a particular circumstance are:

- What are the potential negative impacts associated with the investment?
- Will the government be able to hold itself and others accountable to adequate standards of social and environmental protection?

Figure 2 | Evaluating a Country's Safeguard System

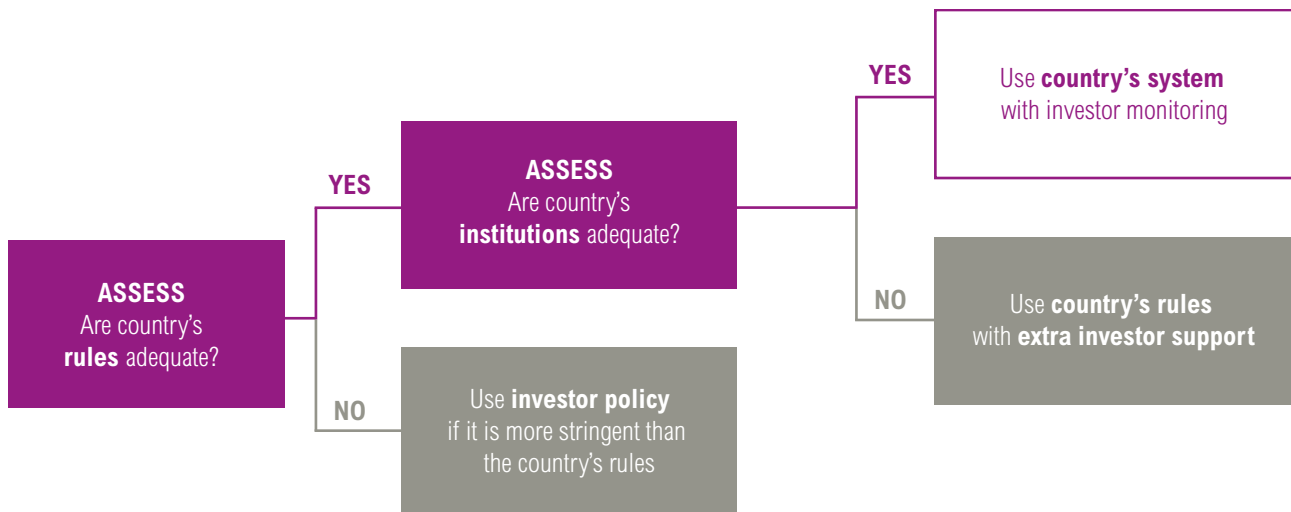


Figure 2 shows a flowchart of the decision-making process.

Looking at an investment's potential negative impacts will help the investor understand the degree and type of protection required. To conserve time and resources, low-impact projects may have fewer safeguard mechanisms, while high-impact projects receive special attention, as the World Bank has done under its traditional, UCS and PforR safeguard approaches. Projects should not be ranked solely based on the type of funding involved—such as project loans versus policy loans. Rather, similar impacts should receive similar treatment. Impacts should not be too narrowly defined, as in the development policy loan in the DRC (Box 13), where the World Bank's Inspection Panel found that Bank staff had incorrectly categorized impacts on indigenous peoples as “indirect” and, therefore, irrelevant.

Once project impacts are understood, the investor can look at the recipient government's ability to oversee the investment. These assessments should look not only at the rules on the books, but also the ability of the government to implement these rules. The World Bank's safeguard diagnostic reviews are a step toward a sound process for assessing country safeguard systems, not just on paper but in practice. To improve this process, investors could further clarify the standards and methodologies

afor determining the strength of the country's rules and institutions with an emphasis on substantive results. Assessments should also acknowledge the often complex socioeconomic, political, and historic context in which the country's systems function, including an investigation of the quality of the relationships between different sectors of government, and between government and nongovernmental stakeholders.

To encourage both ownership and accuracy, the investor should conduct its assessments in collaboration with recipient governments and local citizens, including those likely to be affected by an investment. Investors with many activities in one country can benefit from conducting thorough broad assessments of safeguard systems as separate initiatives not attached to individual investments. This method can ease the time pressure on doing assessments for a project and help spread the cost of assessments more broadly across investments. If conducted properly in collaboration with government, assessments can be a positive contribution to governance in the country.

Investors may benefit from categorizing countries based on the strength of their safeguard systems. Although this could trigger political challenges, it could also encourage positive competition. Care should be taken to differentiate between activities within a country, since some nations may have poor

governance overall, but strong systems in a particular sector (or vice versa). Rankings could take into consideration the government's commitment to sustainability and to improving their safeguard systems.

4. Engage consistently in information gathering, problem solving, and collaboration with the country government and relevant stakeholders

To ensure safeguard implementation, investors need to stay engaged throughout the safeguard process—from assessing impacts to responding to problems. This is true even if the country's system is used. The traditional, UCS and DPO safeguard approaches emphasize impact assessments and plans over support for implementing and monitoring these plans. While an early understanding of potential impacts is a key element of any successful safeguard effort, a lack of follow through can result in poor implementation. Experience indicates the importance of not only anticipating impacts, but also dealing with the actual impacts of the investment. Investors benefit from staying engaged in all functions of a safeguard system, including responding to changes and challenges that will inevitably arise.

Staying engaged also allows investors to respond to opportunities that arise. Safeguards are mandatory minimum standards, but investors and governments are not prevented from going beyond minimum requirements when possible. Viewing social and environmental factors as an opportunity rather than a burden can improve project success. An example was seen in Tanzania's Bagamoyo sugar plantation, where steps were taken to improve the community's wellbeing both inside and outside the project location (Box 7).

5. Invest in adequate human resources for both the investor and recipient government

Staying engaged throughout the safeguard process means investing in adequate staff and expertise. Interviewees across the board expressed concern that the World Bank does not invest enough resources in its own safeguard systems and the

World Bank's own reviews of safeguard implementation have expressed similar sentiments.⁸³ While the World Bank has more people in recipient countries than many other investors, only a few are engaged in monitoring and supporting safeguard implementation, even for traditional safeguards where the Bank's engagement is most intensive.

Experience with the World Bank's four safeguard approaches shows that low staffing levels not only limit the degree to which the investor can understand and respond to problems that arise, they can also create an impression that the investor is not serious about safeguard implementation. This impression can have a negative effect on the relationship between the investor and other relevant parties, and further weaken implementation of safeguard policies. Successful safeguard systems ultimately depend on the motivation and skills of those tasked with implementation. Investors should, therefore, provide positive incentives to attract high-quality employees to their safeguard teams.

6. Provide the staff of both the investor and the host government with proper incentives

Experiences with the World Bank's four safeguard policies indicate that incentive structures play an important role in ensuring effective safeguard implementation. Investors can provide positive and negative incentives to ensure social and environmental protection; often a balance between the two is necessary. PforR, for example, shifted the focus from compliance with up-front documentation to end results, which seems to have improved dialogue between the World Bank and governments. At the same time, the up-front compliance requirements of the World Bank's traditional approach are sometimes necessary to ensure that proper incentives are in place to help ensure thorough impact assessments and management plans.

Investors should influence both their own staff members and those of the host government by rewarding them for effective safeguard implementation, and imposing consequences if implementation is lacking. While safeguard systems should provide clear minimum standards, investors can reward those who go beyond the minimum. Governments

who go beyond the minimum can be rewarded with grants, more favorable loan terms, or technical assistance, while staff members can receive promotions, bonuses, or other benefits. Figure 3 gives a conceptual overview of how investors could reward or sanction host governments or their own staff based on the social and environmental protection provided for an investment.

7. Create clear requirements for the staff of both the investor and the host government, with an emphasis on substantive results

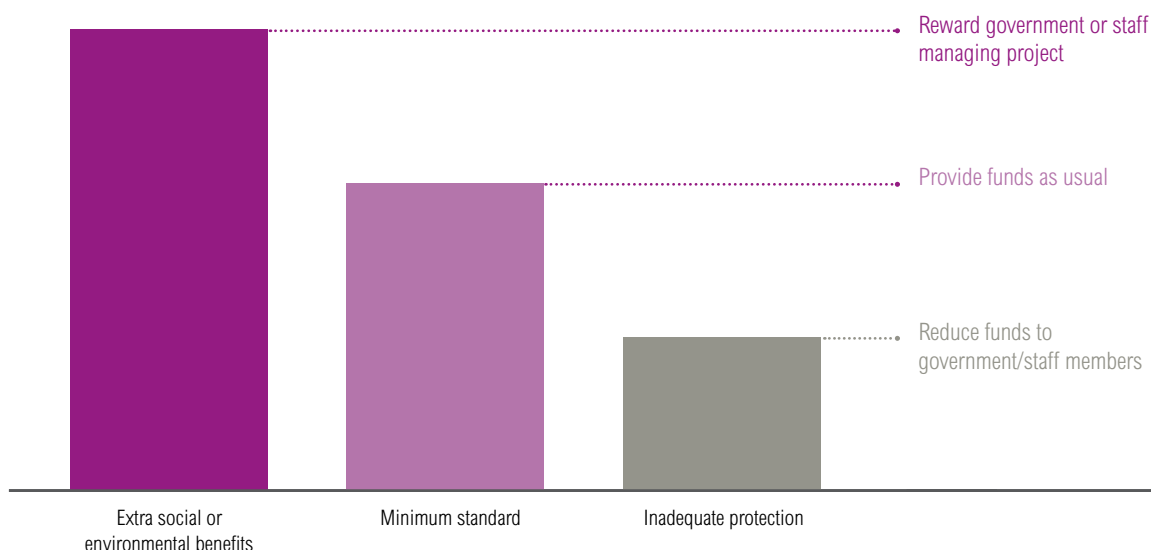
Generally, the four safeguard approaches establish the social and environmental requirements that apply to investments in varying degrees. The DPO approach, for example, gives virtually no direction regarding the acceptable level of social and environmental impacts of a project. Traditional safeguards, provide more details, but tend to focus on procedure not outcomes. The operational principles of the UCS approach come closer to providing substantive standards.

Providing clear minimum standards can help clarify the steps that governments must take to satisfy safeguard needs, and aid those seeking to hold the institution and government accountable for their actions. Experience with the World Bank’s four

Minimum standards should be flexible enough to account for different country contexts, clear enough to identify the most important criteria, and detailed enough to support efficient and effective implementation.

safeguard approaches indicates that when safeguards fail to clearly distinguish between acceptable and unacceptable behavior, several negative consequences can follow. Vague safeguards make assessing the acceptability of country systems a challenge, and places significant responsibility on the individuals implementing the safeguards to interpret them correctly. While such flexibility can

Figure 3 | **Rewarding Positive Behavior**



provide for easier adaptation to different country systems, interviewees indicated that it can also increase delays and stress on investor and government staff, who must spend more time determining the correct way forward.

Minimum standards should be flexible enough to account for different country contexts, clear enough to identify the most important criteria, and detailed enough to support efficient and effective implementation. They should be accompanied by thorough guidance documents to further clarify implementation options.

8. Support citizen engagement throughout the investment process

Finally, engaging the public in the recipient country is vital to both ownership and accountability. Ensuring ownership of projects means turning not only to national governments, but to a variety of actors, including NGOs, community representatives, academics, the private sector, and individuals. Citizens are highly diverse and knowledgeable and can contribute to every stage in the safeguard process, from anticipating impacts to responding to problems that arise. They can, for example, help assess impacts to their communities, develop plans that effectively meet community needs, manage implementation of these plans, monitor com-

munity wellbeing long after the funder has gone home, and ensure that problems are rectified in a manner appropriate for the local context. Investors should seek to enable citizens to participate in their country's safeguard systems. The new Global Partnership for Social Accountability, led by the World Bank, is an interesting initiative to support accountability through civic engagement.⁸⁴

A first step in citizen engagement, and a key element of any effective safeguard process, is to proactively provide information to the public. Transparency can help enhance both government and stakeholder trust in the World Bank, and improve safeguard implementation across the board. Investors have taken important steps toward increasing transparency in recent years, and should continue to strive to be a model for transparent governance. To support transparency, investors must first ensure that their decisions are appropriately documented. The four safeguard methodologies analyzed here showed various degrees of weakness on this front, particularly in relation to documenting the link between impact assessments, plans to deal with impacts, and implementation results. Stakeholders, governments, and investors will all benefit from greater availability of such information. Investors will also benefit from ensuring that recipient country safeguard systems uphold the principle of transparency through disclosure of information and active involvement of communities in all aspects of the safeguard system.

The relationship between governments and different sectors of civil society often involve complex political dynamics. Understanding and engaging with these dynamics can be challenging. However, ignoring them will tend to lead to, at best, subpar development efforts and, at worst, harm to people or the environment.







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Section VIII

CONCLUSION

Our global challenge of reducing both poverty and environmental destruction will not be easily overcome. Effective consideration of environmental and social impacts of our activities will help lead us in the right direction.

Under the right conditions, providing greater country ownership over the safeguard process by using the country's own laws and policies can enhance safeguard implementation.

As a global community we face huge challenges as we strive to enhance global wellbeing while protecting the natural resources and ecosystems on which we rely. Investors—both public and private—need to take responsibility for the effects of their investments or they risk undermining their own goals of economic growth. At the same time, elected governments play a vital role in determining the future of their countries, and in protecting vulnerable people and ecosystems within their borders. Investors, therefore, benefit from working with governments in the countries in which they invest.

This report has provided an indepth look at four ways in which the World Bank has structured the relationship between its social and environmental safeguard policies and the rules and institutions of its recipient countries. These approaches provide valuable lessons for both the World Bank and other investors seeking to answer the question of how to work with governments to reduce social and environmental impacts associated with their investments.

From these approaches we learned that, under the right conditions, providing greater country ownership over the safeguard process by using the country's own laws and policies can enhance safeguard implementation. The World Bank's experiences also show that safeguard systems in developing countries are often not strong enough to ensure protections that live up to international standards. As a result, strong investor safeguard policies are still necessary in many cases to ensure social and environmental protection.

To effectively use a country's safeguard system, the investor must assess the unique strengths and weaknesses of each country's relevant rules and institutions. These assessments must look not only at the rules on the books, but also at implementation in practice, which is often where country systems still have significant weaknesses.

Regardless of the safeguard system used, effective implementation requires investors to engage consistently in information gathering, problem solving, and collaboration throughout the safeguard process. Although use of country systems may result in a different type of investor engagement, consistent engagement throughout the safeguard process—from assessing harm to responding to problems—is necessary.

Consistent engagement will not only allow investors to respond to problems, it also enables them to react to opportunities to create positive change not originally envisioned. Such consistent engagement requires adequate staffing. It also requires proper incentives to attract and retain high-quality talent, and negative consequences for staff members who do not thoroughly follow investor policies. Clear safeguard standards and requirements can ease and speed the work of both investor staff and that of host country governments. Last but not least, citizens play a vital role in the implementation of any effective safeguard system.

Going forward, embracing these lessons will help international financial institutions and other investors successfully manage investments bearing social and environmental impacts, thus helping themselves and recipient counties reach their goals.



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ABOUT WRI

WRI is a global research organization that works closely with leaders to turn big ideas into action to sustain a healthy environment—the foundation of economic opportunity and human well-being.

Our Challenge

Natural resources are at the foundation of economic opportunity and human well-being. But today, we are depleting Earth's resources at rates that are not sustainable, endangering economies and people's lives. People depend on clean water, fertile land, healthy forests, and a stable climate. Livable cities and clean energy are essential for a sustainable planet. We must address these urgent, global challenges this decade.

Our Vision

We envision an equitable and prosperous planet driven by the wise management of natural resources. We aspire to create a world where the actions of government, business, and communities combine to eliminate poverty and sustain the natural environment for all people.

Our Approach

COUNT IT

We start with data. We conduct independent research and draw on the latest technology to develop new insights and recommendations. Our rigorous analysis identifies risks, unveils opportunities, and informs smart strategies. We focus our efforts on influential and emerging economies where the future of sustainability will be determined.

CHANGE IT

We use our research to influence government policies, business strategies, and civil society action. We test projects with communities, companies, and government agencies to build a strong evidence base. Then, we work with partners to deliver change on the ground that alleviates poverty and strengthens society. We hold ourselves accountable to ensure our outcomes will be bold and enduring.

SCALE IT

We don't think small. Once tested, we work with partners to adopt and expand our efforts regionally and globally. We engage with decision-makers to carry out our ideas and elevate our impact. We measure success through government and business actions that improve people's lives and sustain a healthy environment.

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